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SUPREME COURT OF THE UNITED STATES.

No. ~~91.~~ 39.

THE UNITED STATES, PLAINTIFF IN ERROR,

VERSUS

THOMAS FILLEBROWN, Jun.

IN ERROR TO THE CIRCUIT COURT U. S. FOR THE DISTRICT OF COLUMBIA, HOLDEN IN AND FOR THE COUNTY OF WASHINGTON.

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DISTRICT OF COLUMBIA, *sct.*

At a circuit court of the District of Columbia, begun and held in and for the county of Washington, at the city of Washington, on the first Monday of May, being the second Monday of the same month, in the year of our Lord one thousand eight hundred and thirty-one, and of the independence of the United States the fifty-fifth:

Present: WILLIAM CRANCH, *Chief Judge*,
The Hon. BUCKNER THRUSTON, and JAMES S. MORSELL, } *Assistant Judges.*
HENRY ASHTON, Esq. *Marshal*,
WILLIAM BRENT, *Clerk.*

In the record of proceedings of the same court, among others, are the following, to wit:

THE UNITED STATES OF AMERICA
against
THOMAS FILLEBROWN, Jr.

Be it remembered that heretofore, to wit, on the twenty-third day of May, in the year of our Lord one thousand eight hundred and twenty-nine, the said United States of America, by Thomas Swann, Esq. their attorney, prosecuted and sued forth out of the circuit court here, the United States' writ of capias ad respondendum, directed to the marshal of the District of Columbia, in the words, and of the tenor following, to wit:

Capias ad respondendum.

"DISTRICT OF COLUMBIA, *to wit:*

The United States of America to the marshal of the District of Columbia, greeting:

We command you that you take Thomas Fillebrown, jun. late of Washington county, if he shall be found within the county of Washington, in your said district, and him safely keep, so that you have his body before the circuit court of the District of Columbia, to be held for the county aforesaid, at the city of Washington, on the first Monday of December next, to answer unto the United States of America in a plea of trespass on the case, and so forth.

Hereof fail not at your peril, and have you then and there this writ.

Witness, W. Cranch, Esq. chief judge of our said court, at the city of Washington, the 22d day of May, Anno Domini one thousand eight hundred and twenty-nine.

Issued the 23d May, 1829.

W. BRENT, *Clerk.*"

SWANN.

And the said United States, by their attorney aforesaid, on the day of prosecuting and suing forth of the aforesaid writ, declared against the said Thomas Fillebrown, jun. in the plea aforesaid, in form following, to wit:

"DISTRICT OF COLUMBIA, WASHINGTON COUNTY, *to wit*: Nar.

Thomas Fillebrown, jun. late of Washington county, gentleman, was attached to answer unto the United States of America, in a plea of trespass on the case, and so forth. And whereupon the said United States, by Thomas Swann, their attorney, complain, that whereas the said defendant, on the first day of January, in the year of our Lord one thousand eight hundred and twenty-nine, at the county aforesaid, was indebted unto the said plaintiffs in the sum of two thousand and seven dollars and eighty-four cents, current money, for sundry matters and articles, properly chargeable in an account, as by a particular account thereof herewith into court exhibited appears; and being so indebted, the said defendant, in consideration thereof, afterwards, to wit, on the day and year aforesaid, at the county aforesaid, undertook and faithfully promised to the said plaintiffs to pay them the aforesaid sum of money when he should be thereto afterwards required.

And whereas the said defendant afterwards, to wit, on the same day and year aforesaid, at the county aforesaid, was indebted unto the said plaintiffs in another sum of two thousand and seven dollars and eighty-four cents, like money, for divers goods, wares, and merchandises, by the said plaintiffs before that time sold and delivered to the said defendant, and at his special instance and request; and being so indebted, the said defendant, in consideration thereof, afterwards, to wit, on the same day and year aforesaid, at the county aforesaid, undertook and promised to the said plaintiffs to pay them the last aforesaid sum of money when he should be afterwards thereto required.

And whereas afterwards, to wit, on the same day and year aforesaid, at the county aforesaid, in consideration that the said plaintiffs, at the like instance and request of him the said defendant, had, before that time, sold and delivered to the said defendant, divers other goods, wares, and merchandises, the said defendant undertook and promised to the said plaintiffs to pay them so much money as they therefor reasonably deserved to have, when he the said defendant should be thereunto afterwards requested; and the said plaintiffs in fact aver, that they therefor reasonably deserved to have, of the said defendant, another sum of two thousand and seven dollars and eighty-four cents, like money, whereof the said defendant afterwards, to wit, on the same day and year aforesaid, at the county aforesaid, had notice.

And whereas the said defendant afterwards, to wit, on the same day and year aforesaid, at the county aforesaid, was indebted unto the said plaintiffs in another sum of two thousand and seven dollars and eighty-four cents, like money, for the

like sum of money, by the said plaintiffs, and for the use of the said defendant, before that time paid, laid out, and expended, at the special instance and request of the said defendant, and for other money by the said plaintiffs before that time lent and advanced to the said defendant at his special instance and request; and for other money by the said defendant before that time had and received, to the use of the said plaintiffs; and being so indebted, the said defendant, in consideration thereof, afterwards, to wit, on the same day and year aforesaid, at the county aforesaid, undertook and promised the said plaintiffs to pay them the said last mentioned sum of money, when afterwards he should be thereunto required.

And whereas the said defendant afterwards, to wit, on the same day and year aforesaid, at the county aforesaid, accounted, together with the said plaintiffs, of and concerning divers other sums of money, before that time due and owing from the said defendant to the said plaintiffs, and then being in arrear and unpaid; and upon that account the said defendant was then and there found in arrear and indebted to the said plaintiffs, in a large sum of money, to wit, in the further sum of two thousand and seven dollars and eighty-four cents, like money; and so being found in arrear and indebted to said plaintiffs, the said defendant, in consideration thereof, afterwards, to wit, on the day and year aforesaid, at the county aforesaid, undertook and promised to the said plaintiffs to pay them the said last mentioned sum of money when he should be thereunto afterwards required.

Yet the said defendant not regarding his said several promises and undertakings so by him made in this behalf as aforesaid, but contriving and fraudulently intending, craftily and subtly to deceive and defraud the said plaintiffs in this respect, hath not yet paid the said several sums of money or any part thereof to the said plaintiffs, (although so to do the said defendant was requested by the said plaintiffs on the same day and year aforesaid, and often afterwards at the county aforesaid,) but he to do this hath hitherto refused, and still refuses: wherefore the said plaintiffs say they are injured, and have sustained damage to the value of five thousand dollars current money, and therefore they bring suit, &c.

SWANN, *for the plaintiffs.*

Pledges, &c.—JOHN DOE and RICHARD ROE."

Copy of nar. sent with the writ.

A copy of which said declaration was made and sent with the writ to the marshal of the district aforesaid, thereon endorsed, "to be served on the defendant with the writ."

At which mentioned first Monday of December, in the year of our Lord one thousand eight hundred and twenty nine, being the day of the return of the aforegoing writ, come into the circuit court here, the said United States of America by their attorney aforesaid; and the marshal of the district aforesaid to whom the said aforegoing writ was in form aforesaid directed, makes return thereof to the court here, thus endorsed, to wit:

Return of writ.

"cepi, T. Ringgold, marshal;" and the said Thomas Fillebrown,

jr. being called, appears in court here by Richard S. Coxe and Walter Jones, Esqrs. his attorneys; and thereupon, on motion of the said United States by their attorney aforesaid, it is ruled by the court here that the said Thomas Fillebrown, jr. give special bail in the plea aforesaid, or in default thereof be committed to the custody of the marshal of the district aforesaid; whereupon a certain Thomas Sewall and Harvey Lindsley, present here in court in their own proper person, and (with the consent of the said United States by their attorney aforesaid,) undertake for the said Thomas Fillebrown, jr. that, in case the said United States shall recover judgment against the said Thomas Fillebrown, jr. in the plea aforesaid, or that the said Thomas Fillebrown, jr. shall be therein legally convict, that then the said Thomas Fillebrown, jr. shall pay the condemnation of the court thereupon, or render his body to the custody of the marshal of the district aforesaid in satisfaction thereof, or that they the said Thomas Sewall and Harvey Lindsley, will do the same for him; and thereupon, on motion of the said United States by their attorney aforesaid, it is ruled by the court here that the said Thomas Fillebrown, jr. answer to the declaration aforesaid of the said United States in the plea aforesaid, or judgment by the court here will be entered against him in default thereof; and the said Thomas Fillebrown, jr. by his attorney aforesaid, defends the force and injury, when, and so forth, and prays leave of the court here to imparle until the first Monday of May next, and then to answer to the declaration aforesaid of the said United States in the plea aforesaid, and to him it is granted: the same day is given to the United States also.

Motion for bail

Special bail.

Rule, plea and imparlance.

At which said first Monday of May, in the year of our Lord one thousand eight hundred and thirty, to which said day the said Thomas Fillebrown, jr. had leave to imparle, and then to answer to the declaration aforesaid of the said United States in the plea aforesaid, came again into the circuit court here, as well the said United States by their attorney aforesaid, as the said Thomas Fillebrown, jr. by his attorneys aforesaid; and the said Thomas Fillebrown, jr. by his attorneys aforesaid, as before defends the force and injury, when, and so forth, and saith that he did not assume upon himself in manner and form as the said United States above against him have complained, and of this he puts himself upon the country, and the said United States in like manner, and so forth; therefore let a jury thereon appear before the court here immediately, by whom, &c. and who neither, &c. to recognize, &c because as well, &c: whereupon for trying the issue aforesaid, it is ordered by the court here that twelve persons from the pannel of petit jurors returned to the court here by the marshal of the district aforesaid, be drawn by ballot, according to the law in such case made and provided; and thereupon the twelve persons so drawn being called, came, who, being empannelled, and sworn to say the truth in the premises, upon their oath do say that the said Thomas Fillebrown, jr. did assume upon himself in manner and form as the said

Plea of non assumpsit.

Issue joined. Venire.

Jury empannelled.

Verdict of jury.

United States within against him have complained, and they assess the damages of the said United States, sustained by occasion of the non-performance of the promise and assumption aforesaid, to the sum of nineteen hundred and thirty-seven dollars and seventy cents current money: whereupon the said United States by their attorney, pray judgment against the said Thomas Fillebrown, jr. of and upon the verdict aforesaid, by the jurors aforesaid, in form aforesaid given; and the said Thomas Fillebrown, jr. by his attorneys aforesaid, saith that the court here ought not to proceed to render judgment upon the said verdict, and prays that judgment against him, of and upon the said verdict, by the jurors aforesaid, in form aforesaid given, may be set aside, and that the issue aforesaid may be tried anew by other jurors, to be afresh empannelled; and files in court here the following reasons, that is to say:

Motion for new trial by def't

Reasons for new trial.

UNITED STATES
vs.
THOMAS FILLEBROWN, jr. } *Reasons for new trial.*

1. Because the verdict is against law.
2. Because it is contrary to the instruction of the court.
3. Because it is against evidence.
4. Because it is without evidence.
5. Because it is incongruous and inconsistent with itself.

R. S. COXE,
June 16, 1830. *Att'y for defend't.*

New trial granted, and

Venire to Dec. term, 1830.

Whereupon all and singular the premises being seen, and by the court here fully understood, and mature deliberation being thereupon had, for that it appears to the court here that the verdict aforesaid be set aside and held entirely as void, and of no force or effect, and that the issue aforesaid be tried anew by other jurors, to be afresh empannelled; therefore let a new jury thereon appear before the court here on the first Monday of December next, by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. the same day is given to said parties then and there, &c.

At which said first Monday of December, in the year of our Lord one thousand eight hundred and thirty, come again into the circuit court here, as well the said United States, by their attorney aforesaid, as the said Thomas Fillebrown, jr. by his attorneys aforesaid; and thereupon further process of and upon the premises aforesaid, between the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the court here, thereon, is continued until the first Monday of May next.

And now at this day, to wit: the said first Monday of May, in the year of our Lord one thousand eight hundred and thirty-one, come again into the circuit court here, as well the said United States by their attorney aforesaid, as the said Thomas Fillebrown, jr. by his attorneys aforesaid; and the said Thomas Fillebrown, jr. by his attorneys aforesaid, files in court here, the following deposition, to wit:

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Deposition of Samuel L. Southard.

HUNTERDON COUNTY, *State of New Jersey:*

The deposition of Samuel L. Southard, in the county and State aforesaid, a witness, produced, sworn, and examined on the part of the plaintiff, in a certain cause depending in the circuit court of the District of Columbia, for the county of Washington, wherein Thomas Fillebrown, jr. is plaintiff, and Duff Green is defendant.

And also the deposition of the said Samuel L. Southard, a witness produced, sworn, and examined on the part of the defendant, in a certain cause depending in the circuit court of the District of Columbia, for the county of Washington, wherein the United States is plaintiff, and the said Thomas Fillebrown, jr. is defendant.

That is to say:

From the year 1825, to the month March, 1829, this deponent was Secretary of the Navy, and one of the Commissioners of the Navy Hospital Fund: the other commissioners were the Secretary of the Treasury, and the Secretary of War. The situation of the fund at the commencement of the period mentioned, and during the whole period, will be found in the reports made to the President and to Congress, and in letters to the Committee of Ways and Means in the House of Representatives, and of Finance in the Senate, by said Commissioners and Secretary of the Navy. It required constant and earnest attention. Previous to that time separate books and records of its administration and management had not been kept, and the commissioners thought it necessary to provide them, and to appoint a secretary to discharge the duties usually performed by the secretaries of other funds. Thomas Fillebrown, jr. the plaintiff in the above mentioned cause against Duff Green, and the defendant in the above mentioned cause by the United States against said Fillebrown, was appointed by the board, secretary for the discharge of said duties, and his salary fixed at the sum of two hundred and fifty dollars per annum.

This deponent was, by the direction of the board, and by the previous practice and usage, acting commissioner of the fund, and attended to all matters connected with it, but, in every case where any new arrangements were to be made, money to be expended on a new object, or principle to be settled, he consulted with, and had the approval and authority of the whole board, and all his acts were considered as authorized and sanctioned by it.

The appointment and salary of Mr. Fillebrown had the direct and express sanction of the board, and it was understood that he was to discarge his duties at such times and in such manner as not to interfere with his duties as clerk in the Navy Department.

He acted as sceretary during the remainder of the period above mentioned, after his appointment, which was in October or November, 1825, but the records of the fund do not show the whole amount of labor which he had to perform; his duties were often both laborious and troublesome.

Sometime after his appointment, when it was considered

Deposition of S. L. Southard

proper to keep separate records and files of whatever related to this fund, he was directed to procure the necessary books, and make the necessary examinations into the records and files of the Navy office and Fourth Auditor's office, and do whatever was required to place the papers belonging to the fund in a proper condition. This was properly the duty of the secretary of the fund, but it related to a time, previous to his appointment, and for which he could receive no compensation by his salary. It was therefore thought proper to allow him salary for such period previous to his actual appointment, as would be proportioned to the amount of labor actually performed by him, and such allowance was made about the month of May, 1826, and had the approbation of the board. Deponent believes it was one hundred and twenty-five dollars, half a year's salary, but deponent refers to the files of the fund for the written authority given to him to receive the money. This allowance was regarded in the light of payment for extra service, and was given in this form to show the character of the service rendered by him.

Subsequent to the appointment of Mr. Fillebrown, and the fixing of his duties and salary, the commissioners were enabled by appropriations, and by collecting the moneys belonging to the fund from various sources, to proceed in the purchase of sites for hospitals and an asylum, and commence the erection of the buildings, as they were directed to do by the act establishing navy hospitals, passed 26th February, 1811. The fund was placed in the hands of the Treasurer of the United States as their treasurer; and, in collecting and disbursing it, it was found indispensable to have an agent who should attend carefully to it, and be responsible to the board. This did not belong to the duties of the secretary, Mr. Fillebrown, but it was thought best to give the agency to him, on account of his acquaintance with every part of the interests connected with the fund, and his fitness for the discharge of the duty. He was appointed the agent, with the understanding that he should receive a suitable compensation for the services he should render in that capacity. Deponent arranged with Mr. Fillebrown the principles, manner and forms of collecting and disbursing the moneys, and he prepared the drafts, warrants and letters for the signature of deponent when necessary; and in many, perhaps in most cases, had the responsibility of attending the payment and transmission of the moneys, and deponent believes that he did, at all times, act uprightly, diligently and skilfully in every thing relating to the subject. In so doing, it was the understanding of the commissioners that he should receive compensation, in the mode, and according to the practice of the Government in other and similar cases, but deponent does not distinctly recollect whether it was to be by a specific sum, or by a percentage on the money disbursed, but is under the impression that it was the latter, that being the usual mode in such cases.

Deponent is under the impression that he did, by the authority of the board, allow one or more of the accounts presented by Mr. Fillebrown, in conformity with the facts and principles

Deposition of S. L. Southard

above detailed; and that such approval and allowance will be found on file in the office of the secretary of the fund. Deponent very well recollects, that, about the first of March, 1829, Mr. Fillebrown called on him with his accounts, desiring their adjustment and allowance; deponent was then very sick and not able to examine them, or consult the other commissioners; he, therefore, dictated to an amanuensis, a letter to Mr. Fillebrown, expressing his views and opinions respecting his claims, which letter is *probably* dated on the 2d March, 1829, and now on file among the papers of the fund; deponent then believed, and still believes, that Mr. Fillebrown was entitled to a just compensation for the performance of the duties before mentioned.

Deponent further states, that he is acquainted with some of the facts connected with the payment of the sum of nine thousand dollars to the Hon. Thomas Newton, on the 3d March, 1829, and which deponent has been informed was charged against the said Fillebrown. This sum was the price agreed, by the Commissioners of the Navy Hospital Fund, to be paid to Mr. Newton, for land purchased of him near Norfolk, and on which the navy hospital has been erected. Great care had been taken to make the necessary examinations, and select the best site for this hospital, and this land was believed to furnish the best that could be procured. An agreement was then made with Mr. Newton, to give him a certain sum for a specified number of acres; according to deponent's recollection, it was six thousand dollars for about fifteen or twenty acres. After this agreement, deponent and the Honorable James Barbour, one of the commissioners, went to Norfolk to fix on the location of the building, and make the necessary arrangements with the architect and others for its erection. While there, we became satisfied that the convenience, economy, and usefulness of the establishment would be promoted by purchasing the whole of the land owned by Mr. Newton, at that point; we did so, and agreed to give him $9,000 for the whole. The purchase was on the ground, in the presence of, and after consulting the architect and several other respectable and intelligent gentlemen, who were present. Deponent believes that the first agreement was made with Mr. Newton in 1826, and the last early in the year 1827. The commissioners took possession of the land, and proceeded in the erection of the building. The making of the deeds, and the payment of the money, were the subjects of several conversations between Mr. Newton and this deponent, and deponent preferred that Mr. Newton should wait for the payment until it could be made without inconvenience; and it was so agreed. At the commencement of the session, in December, 1828, Mr. Newton informed deponent, that he had brought the deed for the land, and desired that the money should be paid before the end of the session, which was agreed to by deponent, as he expected an appropriation for the benefit of the fund. The appropriation was made of $125,000 dollars, on the 2d March, 1829, and on the

Deposition of S. L. Southard.

next day Mr. Newton called with his deed, for the purpose of receiving the money; deponent was sick in bed, and desired Mr. Newton to take the deed to the office, have it examined, and the payment prepared there.

With the foregoing facts, the first clerk in the Department, and Mr. Fillebrown, the secretary of the fund, were acquainted, and knew that the purchase had been made, and that the money was intended to be paid out of the before mentioned appropriation. A short time after Mr. Newton went to the office, deponent received a note in pencil from the first clerk, stating, in substance, that the certified copy of the law had not been procured, and, therefore, that the money could not be drawn under it on that day, but that he could pay the money to Mr. Newton, and that a requisition could be subsequently signed. The note did not, as deponent recollects, state how the money was to be paid. As Mr. Newton was prepared to leave Washington, and deponent desired that he should be paid before deponent left the office, he returned for answer that the money should be paid; and in the name of Mr. Fillebrown, secretary of the fund, it was so done; and taken, as deponent was subsequently informed, from the pay of the navy, to be replaced immediately by a requisition on the appropriation for the navy hospital fund. This requisition deponent would have signed, if it had been presented to him before he resigned the office of Secretary of the Navy, and did not doubt that it would be signed by his successor in office; that being all that was necessary to place the matter in the situation required by the law, and the obligations which vested in the commissioners to complete their contract with Mr. Newton. In paying the money, Mr. Fillebrown acted as the agent of the commissioners, in completing the contract which they had made, and by which they had procured the land on which they were erecting a very large and costly building.

Deponent is not aware of any other facts necessary for him to state, and important to either of the parties in the above mentioned causes; and in making the foregoing statements, deponent has not been able to examine the papers and documents mentioned, to refresh his memory of dates and sums, but refers to them as the means of correcting his errors, if he have committed any. And further saith not.

SAM. L. SOUTHARD.

Examined, sworn, and subscribed, May 21, 1831, before
CHARLES EWING,
Chief Justice of the Supreme Court of New Jersey.

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THOMAS FILLEBROWN, junior, vs. DUFF GREEN. } In case.

THE UNITED STATES, vs. THOMAS FILLEBROWN, junior. } In case.

I, Charles Ewing, Chief Justice of the Supreme Court of the State of New Jersey, not being of counsel or attorney for either of the said parties, nor in any manner interested in the event of the said causes, or either of them, do hereby certify, that the foregoing deposition of Samuel L. Southard, Esquire, was taken before me, at my house, in the city of Trenton, county of Hunterdon, and State of New Jersey, on the twenty-first day of May, in the year of our Lord one thousand eight hundred and thirty one; that the said deposition was reduced to writing by the said deponent, in my presence, at the said time and place, and so also subscribed by him, the said deponent being first by me carefully examined and cautioned, and sworn to testify the whole truth relative to the before mentioned causes, or matters in controversy. The said deposition was taken at the instance of the said Thomas Fillebrown, Jr. the plaintiff in the one, and the defendant in the other, of the said causes named in the caption or introduction hereof; and the reason for taking the same was, that the residence of the said deponent, Samuel L. Southard, at Trenton aforesaid, is at a greater distance from Washington county, in the District of Columbia, the place of trial, than one hundred miles. Neither the adverse party nor his attorney, so far as I know, and as I verily believe, are within one hundred miles of this place, and therefore they were not notified by me of the taking of this deposition, nor present at the taking thereof. And I further certify that the said deposition is by me sealed up, and directed to the said Circuit Court of the District of Columbia for the county of Washington. In testimony whereof I have hereunto set my hand and seal, the day and year in this behalf above written. CHARLES EWING. [L. S.]

Order to empannel new jury.

Whereupon, for trying anew the issue aforesaid, it is ordered by the court here, that twenty persons, from the pannel of petit jurors returned to the court here by the Marshal of the District aforesaid, be drawn by ballot, according to the law in such case made and provided; and thereupon, the twenty persons being so drawn by ballot, and written upon two lists, one of which said lists is delivered to the counsel for the respective parties, and the counsel for each of the said parties having stricken out four persons from the said lists, thereupon the remaining twelve persons being called, came, to wit: Greenbury Gaither, Clement McWilliams, Thomas Marshall, Singleton Townshend, Jacob Janney, Henry McPherson, Thomas Fenwick, Henry G. Wilson, Edward N. Roach, Matthew Mitchell, Jesse Lipscomb, and William McCauley, who being

New jury empannelled.

Verdict of jury.

empannelled, and sworn to say the truth in the premises, upon their oath do say, that the said Thomas Fillebrown, Jr. did not assume upon himself in manner and form as the said United States within against him have complained; therefore, it is considered by the court here, that the said United States take nothing by their writ and declaration aforesaid, and that the said Thomas Fillebrown, Jr. go thereof, without day, &c.

Judgment on verdict.

And the jurors aforesaid, at the time of bringing in their verdict aforesaid, filed in court here the following certificate, to wit: "The jurors empannelled in the case of the United States *vs.* Thomas Fillebrown, Jr. find, upon examining the accounts filed, that the United States are indebted to the said Fillebrown in the sum of four hundred and thirty dollars."

Certificate of jury in favor of defendant.

Witness our hands, this 26th day of May, 1831.

Greenbury Gaither,	*Singleton Townshend,*
Clement McWilliams,	*Matthew Mitchell,*
Wm. M. McCauley,	*Ed. N. Roach,*
Jacob Janney,	*Thos. Marshall,*
Thos. Fenwick,	*H. G. Wilson,*
Jesse Lipscomb,	*Henry McPherson.*

Memorandum.—Before the jurors aforesaid withdrew from the bar of the court here, the said United States, by their attorney aforesaid, filed in Court here the following bills of exceptions, to wit:

THE UNITED STATES,
vs.
THOMAS FILLEBROWN, junior.

First bill of exceptions.

Upon the trial of this cause, the plaintiffs gave in evidence to the jury the account hereto annexed, &c. in these words and figures, to wit: (copied at page 28, &c.) and read to the jury the certificate of the officers of the Government annexed to the said account. The plaintiffs then read in evidence to the jury the different warrants mentioned in the said account, with the receipts of the defendant upon the said warrants for the moneys therein mentioned; which said warrants, it is admitted, correspond with those charged in the said account.

The plaintiffs then read to the jury the following copies of entries from the books kept by the Board of Navy Hospital Commissioners, in these words, to wit: (copied at page 41, &c.)

The plaintiffs then gave evidence to the jury to prove that the defendant entered upon the performance of the duties mentioned in his said letter of appointment, and was the only person appointed by the said Navy Hospital Board, to perform any of the duties of the said board, except as appears by the documentary evidence in this cause.

The plaintiffs gave evidence to prove that the defendant, at the time he was so appointed by the said Navy Hospital Commissioners, was a clerk in the Navy Department of the United States, upon a salary of $1000 per year, and continued to be a

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First bill o exceptions.

clerk in the said Navy Department for the whole time he performed the duties required of him by the said Board of Navy Hospital Commissioners.

The plaintiffs produced a book containing a record of the correspondence, &c. of the said board of commissioners, the entries were in, from page 34 to page 131, inclusive, are admitted to be in the hand writing of defendant. (Which book is to be considered, as annexed and used in the appellate court, either the original or copy.) It is admitted that besides the said book, there are three others belonging to the office of said commissioners, which were also kept by defendant during the time he acted as secretary to the board, to wit: a warrant-book, journal and ledger; all of which are to be considered, in like manner annexed, &c. &c.

The plaintiffs further produced in evidence, two books from the office of the Treasurer of the United States, containing the accounts of the Treasurer with the Commissioners of the Navy Hospital Fund, to be in like manner considered as annexed, &c. &c.

The plaintiffs vested their case upon this evidence.

The defendant, on his part, produced evidence to prove that it was the general usage of the several departments of the Government, to allow to officers of the Government, both civil and military, commissions upon pecuniary transactions, not within the sphere of their regular official duties; which commissions were allowed over and above the stated salary or other compensation, to which such officers were entitled ex-officio; and to support such usage, proved that the Navy Department had been, for a long course of years, in the habit of allowing the officers of the navy commanding squadrons or ships, a commission 2½ per cent, for bills drawn by such officers on the Navy Department, in order to obtain supplies abroad for the use of such squadrons or ships; and also to allow such officers, when, from any emergency, acting as pursers, a like commission on their disbursements of public money, over and above their regular pay and emoluments ex-officio, and the profits arising from the purser's business so transacted by them; and also to allow such officers, other extra compensation, in the form of a per diem allowance, when engaged in extra service, as on surveys, courts martial, &c. That it had also, for a long course of years, been the habit and custom of the War Department, to allow such commissioners and other extra compensation, for like services, to the officers of the army, and of the topographical engineers; and the defendant further produced, and read in evidence, the report of the Third Auditor, accompanying the letter of the Secretary of War, (January 2, 1827,) to the Speaker of the House of Representatives, printed among the documents of that House, of the 19th Congress, and 2d session, Doc. No. 41, which was admitted in evidence, and to be referred to (extracts copied beginning at page): and defendant also produced and read in evidence, the report of the Secretary of the Treasury to the House of Representatives, printed among the

First bill of exceptions.

documents of that house, of the 21st Congress, 1st session, Doc. No. 57, in like manner admitted, and to be referred to, (copied, beginning at page): and further proved that the Navy Department had, for thirty or forty years past, been in the habit of allowing one of the clerks of that department, a commission of one per cent. over and above his regular salary as clerk, for the disbursement of the contingent fund of the department, and occasional disbursements of the fund appropriated for the pay of the navy; and that the accounting officers of the Treasury, attached to the War and Navy Departments, were in the habit of passing and allowing such commissions and other extra compensation in the settlements of the accounts of the persons claiming the same, upon such allowance being signified on the account, by the head of the department, putting the initials of his name to such allowance: and the defendant produced, and read in evidence to the jury, the following accounts, &c., from among the public documents of admitted accounts of disbursements of the said navy hospital fund, to wit: Account of George Harrison, navy agent, with the said commissioners, 26th June, 1826; a receipt from the same, dated 14th July, 1826; account of W. S. Rodgers, purser in the navy, 24th September, 1823, with a receipt dated 16th August, 1826; approval of George Harrison's account, by the commissioners, per letter, 12th July, 1826; account of Silas Butler, purser of the navy, dated 15th May, 1824; also, the two reconciling statements furnished by the Fourth Auditor to defendant, dated 5th November, 1829, and 24th November, 1829; and defendant's letter to said Fourth Auditor, dated 5th November, 1829: all of which are admitted. (Copied at page to page .) And the said defendant further proved that, in the first account rendered by him to the said commissioners, after his said appointment as secretary, he charged a commission of one per cent. on his disbursements of the navy hospital fund, of which the allowance is signified by the initials of S. L. Southard, then Secretary of the Navy, signed by himself; and his several accounts, as rendered to the said commissioners, are produced from the Treasury Department, and hereto annexed, (copied at page); also a letter from the said S. L. Southard, written on the 2d March, 1829, while he was such secretary as aforesaid, (being the same letter recorded in said book, produced by plaintiffs as aforesaid, at page 130,) to the admission of which letter the plaintiffs object, any further than as the testimony of Mr. Southard to the matters therein stated; also the deposition of J. H. Eaton, present Secretary of War, which is admitted and hereto annexed. (Copied at page .)

Memorandum.—The said book containing the record of Mr. Southard's said letter of the 2d March, 1829, was produced by plaintiffs after that letter had been given in evidence by defendant, as aforesaid.

And it was further proved that no account was opened at the Treasury with the defendant, on account of the receipts and disbursements of the said navy hospital fund, till the account

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First bill of exceptions.

was transmitted to be settled preparatory to this suit, and when the above account, first produced by plaintiffs, was stated in the form aforesaid; and that defendant, during all the time he acted as secretary, as aforesaid, rendered his accounts to the said commissioners, in the form above given in evidence, and not to the Treasury Department.

The plaintiffs then gave to the jury this further evidence, viz: (the evidence of Geo. W. Dashiell, copied at page .)

And the defendant gave to the jury this further evidence, viz: (the evidence of George Macdaniel, copied at page .)

Whereupon, the plaintiffs prayed the opinion and instruction of the court to the jury, as follows:

Upon the evidence so given, the counsel for the United States prayed the court to instruct the jury—

That, if from the evidence aforesaid, it should appear to them that the defendant had accepted the appointment of secretary of the Board of Navy Hospital Commissioners, upon the terms mentioned in the said appointment, and in the said letter of S. L. Southard to him, of the 7th of November, 1825, as herein before stated; that in that case, he was not entitled to any extra compensation for the disbursement of the moneys belonging to the said navy hospital fund; and that he was only entitled to $250 a year, for the whole of the services performed by him for the said board.

And the said plaintiffs prayed the court further to instruct the jury—

That, if they should be satisfied by the evidence aforesaid, that the said Board of Navy Commissioners had never passed any order or resolution for the payment of any commission upon the moneys disbursed by the defendant for the said board, and that the claim for commissions, which he now makes, had never been sanctioned or settled by the said board; that it is not competent for him now to set up the said claim for commissions against the claim of the United States, for which this suit is brought.

Which instructions the court refused; and thereupon, at the instance of the defendant, instructed the jury as follows:

If the jury believe, from the evidence, that the regular duties to be performed by the defendant, as secretary to the Commissioners of the Navy Hospital Fund, at the stated salary of $250 per annum, did not extend to the receipt and disbursement of the fund; that the duty of receiving and disbursing the fund was required of and performed by him, as an extra service over and above the regular duties of his said appointment; that it has been for many years the general practice of the Government and its several departments, to allow to persons, though holding offices or clerkships, for the proper duties of which they received stated salaries or other fixed compensation, commissions over and above such salaries or other compensation, upon the receipts and disbursements of public moneys, appropriated by law for particular services, when such receipts and disbursements were not among the ordinary and regular duties

appertaining to such offices or clerkships, but superadded labor and responsibility apart from such ordinary and regular duties; and that defendant took upon himself the labor and responsibility of such receipts and expenditures of the navy hospital fund, at the request of said commissioners, either under an agreement, or with an understanding on both sides, that he should be compensated for the same, as extra service, by the allowance of a commission on the amount of such receipts and disbursements; then it is competent for the jury, in this case, to allow such commissions to the defendant, on the said receipts and disbursements, as the jury may find to have been agreed upon between the said commissioners and defendant; or, in the absence of any specific agreement fixing the rate of such commissions, such rate as the jury shall find to be reasonable, and conformable to the general usage of the Government and its departments in the like cases. First bill of exceptions.

To which refusal of the court to give the instructions moved by the plaintiffs, and to the said instructions given at the instance of the defendant, plaintiffs except, &c., and this, their bill of exception, is sealed, &c., this 26th May, 1831.

W. CRANCH. [SEAL.]
JAMES S. MORSELL. [SEAL.]

DR. THOMAS FILLEBROWN, JR. *Secretary, in account with Commissioners of Navy Hospital.* CR.

1826.					1826.			
February 6,	To warrant	No. 1,	-	77 50	February,	To paid J. & J. Williams,	No. 1,	15 00
May 1,	do.	2,	-	62 50	May 6,	My services as secretary for year ending this day,	-	250 00
" 24,	do.	3,	-	125 00				
July 12,	do.	4,	-	161 91	July 14,	Paid George Harrison,	2,	161 91
August 10,	do.	5,	-	198 50	August 24,	Davis & Force,	3,	18 50
October 24,	do.	6,	-	1,000 00	Sept'r 34,	William S. Rogers,	4,	180 00
Nov'r 13,	do.	7,	-	100 00	October 31,	Pratt & Bricknell,	5,	1,000 00
" 30,	do.	8,	-	3,300 00	Nov'r 15,	George Harrison,	6,	100 00
December 5,	do.	9,	-	200 00	Dec'r 14,	Tho. Harris,	7,	82 20
" 29,	do.	10,	-	130 00	1827.			
1827.					January 6,	Pratt & Bricknell,	8,	3,000 00
January 16,	do.	11,	-	10,793 94	" 19,	George Harrison,	9,	10,793 94
" 29,	do.	12,	-	1,450 00	" 29,	John Haviland,	10,	300 00
" 30,	do.	13,	-	300 00	March 2,	Do.	11,	10,000 00
February 28,	do.	14,	-	10,000 00	" 14,	William Strickland,	12,	6,000 00
March 6,	do.	15,	-	4,500 00	" 15,	Tho. Harris,	13,	101 34
" 13,	do.	16,	-	101 34	" 24,	George Strickland,	14,	75 00
" 21,	do.	17,	-	75 00	" 31,	George Harrison,	15,	2,200 00
" 29,	do.	18,	-	1,200 00	May 4,	John Haviland,	16,	10,000 00
April 30,	do.	19,	-	10,000 00	" 6,	My salary for year,	-	250 00
May 1,	do.	20,	-	62 50	" 9,	William Strickland,	17,	10,000 00
" 7,	do.	21,	-	10,000 00	" 25,	George Harrison,	18,	1,113 63
" 22,	do.	22,	-	1,113 63	June 14,	William Strickland,	19,	10,000 00
June 11,	do.	23,	-	10,024 87	" 28,	John Haviland,	20,	10,000 00
" 21,	do.	24,	-	10,000 00	July 7,	William Strickland,	21,	10,000 00
July 5,	do.	25,	-	10,000 00	August 22,	John Haviland,	22,	15,000 00
August 6,	do.	26,	-	62 50	" 22,	William Strickland,	23,	10,000 00
" 15,	do.	27,	-	15,000 00	Sept'r 20,	Do.	24,	10,000 00

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DR. THOMAS FILLEBROWN, JR. *Secretary, in account with Commissioners of Navy Hospital.* CR.

1827.				October 6,	John Haviland,	No. 25,	10,000 00
August 20.	To warrant	No. 28,	10,000 00	Nov'r 2,	Tho. Harris,	26,	500 00
Sept'r 17,	do.	29,	10,000 00	" 17,	Do.	27,	100 00
" 26,	do.	30,	10,000 00	1828.			
October 31,	do.	31,	562 50	Feb'y 29,	John Haviland,	28,	1,200 00
Nov'r 15,	do.	32,	300 00	March 20,	William Strickland,	29,	5,000 00
1828.				April 15,	Do.	30,	4,405 94
January 3,	do.	33,	200 00	May 6,	My salary for the year,	-	250 00
" 30,	do.	34,	1,450 00	" 15,	William Strickland,	31,	5,000 00
February 29,	do.	35,	1,200 00	June 12,	Do.	32,	10,000 00
March 18,	do.	36,	3,550 00	" 18,	John Haviland,	33,	15,000 00
April 11,	do.	37,	4,405 94	July 17,	William Strickland,	34,	10,000 00
May 13,	do.	38,	5,000 00	October 6,	Do.	35,	10,000 00
June 9,	do.	39,	10,000 00	" 7,	John Haviland,	36,	10,000 00
" 17,	do.	40,	25,000 00	Nov'r 17,	Do.	37,	5,000 00
October 3,	do.	41,	20,175 00	Dec'r 4,	J. Avnett,	38,	63 52
Nov'r 13,	do.	42,	5,000 00	" 16,	T. Harris,	39,	500 00
" 24,	do.	43,	200 00	1829. Feb. 10,	Do.	40,	1,000 00
December 4,	do.	44,	63 52	" 6,	My salary for 3 quarters,	-	187 50
" 11,	do.	45,	500 00				207,848 48
1829.					Commis. 1 per ct. on amount dis.		2,007 84
February 10,	do.	46,	1,100 00				209,856 32
March 2,	do.	47,	910 17	April 4,	Paid John Haviland,	No. 41,	10,000 00
			$209,856 32	" 14,	William Strickland,	42,	10,000 00
March 31,	do.	48,	20,000 00				$229,856 32
			$229,856 32				

Mr. Fillebrown, it appears, was appointed secretary, in Nov. 7, 1825. He can be entitled to pay as such only from the date of his appointment. The allowance of 1 per cent. on the moneys disbursed cannot be allowed unless authorized by some existing law. None such is known to the commissioners; of course they cannot have authority to admit it.

J. H. EATON.
J. BRANCH.

September 7, 1829.

DR. THOMAS FILLEBROWN, JR. *Secretary of the Commissioners of Navy Hospital Fund, in account with U. S.* CR.

NAVY HOSPITALS.		NAVY HOSPITALS.	
To this sum received from said commissioners, between the 6th day of February, 1826, and the 31st March, 1829, per warrants from 1 to 48, inclusive, as credited in said Fillebrown's account, transmitted to this office by the Second Comptroller of the Treasury herewith, - - - - -	229,856 32	By expenditures per abstract, - - - - -	226,910 98
		Salary as secretary to the Commissioners, from Nov. 7, 1825, to 16th May, 1829, inclusive, is three years, six months and ten days, at $250, - -	881 96
		Balance due the United States, - - -	2,063 38
	229,856 32		$229 856 32
To balance due the United States, - - - - -	$2,063 38		

Reconciling statement of the account of Thomas Fillebrown, Jr., secretary of the Commissioners of the Navy Hospital Fund, reported 10th September, 1829.—No. 226.

To overcharge of salary, from 6th May to 7th November, 1825, six months, one day, at $250 - - - -	125 68
Commission of 1 per cent. disallowed, - - -	2,007 84
	2,133 52
Deduct pay from 6th February, 1829, (time charged to in his account) to the 16th May, 1829, not charged, 3 mo. 11 d.	70 14
Balance due the United States per offi. statements, - -	$2,063 38

TREASURY DEPARTMENT, FOURTH AUDITOR'S OFFICE,
Stated by ROBERT GETTY.

SECOND COMPTROLLER'S OFFICE, *Sept.* 11, 1829.
Examined: E. REYNOLDS.

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No. 226.

TREASURY DEPARTMENT,

Fourth Auditor's Office, Sept. 10, 1829.

I certify that I have examined and adjusted the account of Thomas Fillebrown, jun., secretary of the Navy Hospital Fund, and find that he is indebted to the United States in the sum of two thousand and sixty-three dollars and thirty-eight cents.

Navy Hospitals, $2,063 38.

As appears from the statement and vouchers herewith transmitted for the decision of the Second Comptroller of the Treasury thereon.

T. H. GILLISS,
Acting Fourth Auditor.

ISAAC HILL, Esq.,
Second Comptroller of the Treasury.

SECOND COMPTROLLER'S OFFICE.

I admit and certify the above balance, this 11th day of September, 1829.

ISAAC HILL,
Second Comptroller.

The Commissioners of Navy and Hospitals, Dr.
To Thomas Fillebrown, jr., their Secretary.

For my salary as secretary, from 7th February to 16th May, 1829, three months, ten days, at $250 per annum, - -			69 36
For my commissions as disbursing officer on the following paym'ts:			
1829. March 3, To T. Newton, for land, -	9,000 00		
April 4, J. Haviland, (advance) -	10,000 00		
14, W. Strickland, do. -	10,000 00		
	$29,000, 1 *pr. ct.*		290 00
For short charge of comm's in acc't rendered 2d March, 1829, viz:			
On $207,848 48. 1 *per ct.* - - -	2,078 48		
Deduct amount charged and received, -	2,007 84		
	70 64		
			70 64
			$430 00

E. E. THOMAS FILLEBROWN, Jr.

Thomas Fillebrown, jr., Secretary of the Commissioners of the Navy Hospital Fund,
To the United States, Dr.

Navy Hospitals:	
For balance due per report No. 226, dated 10th September, 1829, - - - - - -	2,063 38

449

Pay afloat:
For requisition No. 2,388, issued in his favor 3d March, 1829, - - - - - - - 9,000 00

$11,063 38

Navy Hospitals, 2,063 38
Pay afloat, - 9,000 00

$11,063 38

TREASURY DEPARTMENT,
Fourth Auditor's Office.
Stated by B. BUCKNER, *Clk.*

Reconciling statement of the account of Thomas Fillebrown, Jr. Secretary to the Commissioners of the Navy Hospital Fund.

For this sum overcharged for salary per report No. 226, -		125 68
1 per cent. commission, disallowed per report No. 226,		2,067 84
Requisition No 2,388, issued in his favor 3d March, 1829,		9,000 00
1 per cent. commission, disallowed on $29,000 in his last account, - - - - - - -		290 00
1 per cent. commission, disallowed for short com. in do.		70 64
		11,494 16
Deduct this sum due him, per his last account herewith,	430 00	
Short calculation in salary, - - -	78	
		430 78
Balance due the United States per offi. statement, - -		$11,063 38

TREASURY DEPARTMENT,
Fourth Auditor's Office,
Stated by B. BUCKNER, *Clk.*

No. 353.

TREASURY DEPARTMENT,
Fourth Auditor's Office, Oct. 31, 1829.

I certify that I have examined and adjusted the accounts of Thomas Fillebrown, jr., secretary to the Commissioners of the Navy Hospital Fund, and find that there is due from him to the United States, the sum of eleven thousand and sixty-three dollars and thirty-eight cents.

Due the United States, under
Navy Hospitals, 2,063 38
Pay afloat, 9,000 00

$11,063 38

As appears from the statement and vouchers herewith transmitted for the decision of the Second Comptroller of the Treasury thereon.

AMOS KENDALL, *Auditor.*

To ISAAC HILL, Esq.
Second Comptroller of the Treasury.

SECOND COMPTROLLER'S OFFICE.

I admit and certify the above balance, this 31st day of October, 1829.

ISAAC HILL,
Second Comptroller.

DR. THOMAS FILLEBROWN, JR., *late Secretary to the Commissioners of the Navy Hospital Fund, in acc't with U. S.* CR.

NAVY HOSPITALS.		NAVY HOSPITALS.	
To balance due per report No. 353, dated 31st October, 1829, - - - - -	2,063 38	By balance due United States, under this head, - - - - -	2,063 38
To balance due United States under this head, -	$2,063 38		
PAY AFLOAT.		PAY AFLOAT.	
To balance per report No. 353, dated October 31, 1829, - - - - -	$9,000 00	By Thomas Newton, Norfolk, Va., for this sum paid him per his receipt filed herewith,	$9,000 00

TREASURY DEPARTMENT,

Fourth Auditor's Office,

H. C. WILLIAMS, *Clerk.*

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No. 399.

TREASURY DEPARTMENT,

Fourth Auditor's Office, Nov. 16, 1829.

I certify that I have examined and adjusted the account of Thomas Fillebrown, jr., late secretary of the Commissioners of the Navy Hospital Fund, and find that there is due from him to the United States the sum of two thousand and sixty-three dollars and thirty-eight cents, under Navy Hospitals, as appears from the statement and vouchers herewith transmitted for the decision of the Second Comptroller of the Treasury thereon.

AMOS KENDALL, *Auditor.*

To ISAAC HILL, Esq.
Second Comptroller of the Treasury.

SECOND COMPTROLLER'S OFFICE.

I admit and certify the above balance, this 16th day of November, 1829.

ISAAC HILL,
Second Comptroller.

TREASURY DEPARTMENT,

Fourth Auditor's Office, Nov., 17, 1829.

Pursuant to "An act to provide for the prompt settlement of public accounts," approved 3d March, 1817, I, Amos Kendall, Fourth Auditor of the Treasury of the United States, do hereby certify that the foregoing are true transcripts from the original report, on file in this office.

AMOS KENDALL.

Be it remembered, that Amos Kendall, Esquire, who certified the foregoing transcript, is now, and was at the time of doing so, Fourth Auditor of the Treasury of the United States, and that faith and credit are due to his official attestations.

In testimony whereof, I, Samuel D. Ingham, Secretary of the Treasury of the United States, have hereunto subscribed my name, and caused to be affixed the seal of this department, at the city of Washington, this seventeenth day of November, in the year of our Lord one thousand eight hundred and twenty-nine.

[L. S.] S. D. INGHAM,
Secretary of the Treasury.

At a meeting of the Commissioners of Naval Hospitals, in the city of Washington, on the 7th day of November, 1825:

Present, Hon. Samuel L. Southard, Secretary of the Navy; Hon. Richard Rush, Secretary of the Treasury; Hon. James Barbour, Secretary of War.

It was *Resolved*, That a secretary be appointed to this board, to take charge of the books, papers, &c. belonging to the hospital fund; and to execute such duties relative thereto, as may be required of him by the board; for which services he shall be allowed the sum of two hundred and fifty dollars per annum.

Resolved, That Mr. Thomas Fillebrown, jr. be appointed secretary.

And then the board adjourned.

NAVY DEPARTMENT, *7th Nov'r*, 1825.

Mr. THOMAS FILLEBROWN, jr., *Present:*

SIR: You are hereby appointed secretary to the Board of Commissioners of the Naval Hospital Fund. The duties appertaining to this appointment you will commence forthwith. Your compensation will be two hundred and fifty dollars per annum.

I am, respectfully, &c.,
SAM'L L. SOUTHARD.

NAVY DEPARTMENT, *22d May*, 1826.

Mr. THOMAS FILLEBROWN, jr., *Present:*

SIR: In consideration of the duties performed by you since your appointment as secretary to the Commissioners of Navy Hospitals, you may consider your appointment as anti-dated six months, and draw a warrant for your salary for that period.

I am, respectfully, &c.,
S. L. S.

The Commissioners of Naval Hospitals to George Harrison, Navy Agent, Dr.

For the purchase money and expense of survey, &c. of a lot of ground bought of Mr. Timothy Abbott, by order the Hon. Sam'l L. Southard, Secretary of the Navy, in letter dated 1st May, 1826, situate on the river Schuylkill, north of, and near to, the United States' arsenal, as a site for a naval hospital, containing twenty five acres two roods and twenty three perches - - - - - - -	$16,000 00
The services of T. Mitchell, land broker, surveyings and writings, &c. - - - - - - - -	191 00
	16,191 00
My commission on the above at 1 per cent. - - -	161 91
	$16,352 91

Errors excepted.—Philadelphia, 26th June, 1826.
WILLIAM REED,
for George Harrison.

Approved: S. L. S.

Philadelphia, July 14, 1826.—Received from Thomas Fillebrown, jr., esq., secretary of the Commissioners Naval Hospitals, one hundred and sixty-one dollars and ninety-one cents, in full for balance due as per account stated. $191 91. GEO. HARRISON.

The deeds shall be forwarded as soon as recorded, with the district attorney's certificate as to said title.

Commissioners of Navy Hospitals to Wm. S. Rodgers, Dr.

For brokerage on the purchase of real estate in Chelsea, intended as a site for a naval hospital, 1 per cent. on $18,000 - - - $180

Boston, Sept. 24, 1823.

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Boston, August 16, 1826.—Received payment for the above of Thos. Fillebrown, jr.

WM. S. ROGERS.

Allowed. S. L. S.

NAVY DEPARTMENT, 12*th July*, 1826.

GEORGE HARRISON, Esq.,
Navy Agent, Philadelphia.

SIR: Your letter of the 26th ult., with your account, &c. for purchase for the Commissioners of Navy Hospitals, has been received. The account is approved by the commissioners, and I now remit you my check for the sum of one hundred sixty-one dollars and ninety-one cents, ($161 91,) being the amount charged for commission. Be pleased to send me your receipt for this amount when realized, under cover to the Hon. Secretary of the Navy.

When the deed shall be recorded, I will thank you to transmit the same to the commissioners. I am, very respectfully, &c.

T. F., jr., *Secretary, &c.*

Office of Discount and Deposite, Washington, D C., July 12, 1826.

Pay to George Harrison, Esq., or order, the sum of one hundred sixty-one dollars and ninety-one cents, ($161 91.)

T. F., jr.

NAVY DEPARTMENT, *Nov.* 25, 1829.

I, John Boyle, do hereby certify that the preceding copy of a letter is correctly transcribed from a record book now kept in this department.

JOHN BOYLE.

Be it remembered, that John Boyle, who certified the preceding, is now, and he was, at the time of doing so, a clerk of this department; and that faith and credit are due to his official attestations.

In testimony of which, I, John Branch, Secretary of the Navy of the United States, have hereunto subscribed my name, and caused to be affixed the seal of the Navy Department, at the city of Washington, this 25th day of November, in the year of our Lord 1829, and of the independence of the United States the fifty-fourth.

[L. S.] JNO. BRANCH.

The United States' Navy Department in account with Silas Butler, agent for the purchase of the homestead farm belonging to the estate of the late Martin Schenk.

Dr.					Cr.
1824.			1824.		
March 1	To amount paid this day, being 10 per cent. on whole am't of purchase for homestead farm belonging to the estate of the late Martin Schenk,	765 00	May 3	By amount of draft received this day from the Treasurer of the United States, - -	6,885 00
May 1	To ditto, balance of purchase money due on ditto,	6,885 00		By balance due S. Butler, carried to his general account current with U. S. Navy Department,	1,026 75
	To commissions for the purchase of the farm above named, deed and maps of which have been forwarded to the Hon. the Secretary of the Navy, on $7,650, at 2½ per cent, - - - -	191 25			
	To amount paid Abm. Vandervier, for examining the records of King's county, as per bill herewith, - - - - - -	10 00			
	To ditto for recording deeds, &c., as per bill herewith, - - - - - -	2 00			
	To ditto Jeremiah Sott, for surveying and furnishing map of the above described property, as per bill herewith, - - - - -	8 50			
	To di to Robert Tillotson, Esq., District Attorney, as per bill, - - - - -	50 00			
	Dollars, -	7,911 75		Dollars, -	7, 11 75
	To balance due, carried to S. B.'s general account,	1,036 75			

E. E.—*May 15th*, 1824.

SILAS BUTLER.

Approved, except as to the commissions, which are suspended for future consideration.
11 May, 1825. S. L. S.
Allowed. S. L. S.

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NAVY DEPARTMENT, *Nov'r 25th*, 1829.

I, John Boyle, do hereby certify that the within transcript is a true copy of an original account, on file in this department.

JOHN BOYLE.

Be it remembered, that John Boyle, who certified the preceding transcript, is now, and he was at the time of doing so, a clerk of this department, and that faith and credit are due to his official attestations.

In testimony of which, I, John Branch, Secretary of the Navy of the United States, have hereunto subscribed my name, and caused to be affixed the seal of this department, at the city of Washington, this 25th day of November, in the year of our Lord 1829, and of the independence of the United States the fifty-fourth.

JNO. BRANCH.

Reconciling statement of the account of Thomas Fillebrown, jr., Secretary of the Commissioners of the Navy Hospital Fund; reported 10th September, 1829.

To overcharge of salary, from 6 May to 7 November, 1825—6 months 1 day—at $250 per annum, - - -	$125 68	
To commission of 1 per cent. disallowed, - - -	2,007 84	
		2,133 52
Deduct pay from 6 February, 1829, (time charged to in his account,) to the 16 May, 1829, not charged—3 months 11 days,		70 14
Balance due the U. S., per off. statement, - - -		$2,063 38

TREASURY DEPARTMENT,
Fourth Auditor's Office, 5th Nov., 1829.
AMOS KENDALL.

Reconciling statement of the account of Thomas Fillebrown, jr., Secretary to the Commissioners of the Navy Hospital Fund; reported 31 October, 1829.

For this sum overcharged for salary, per report No. 226, -	$125 68	
For 1 per cent. commission disallowed, per report No. 226, -	2,007 84	
For requisition No. 2,388, issued in his favor, 3d March, 1829,	9,000 00	
For 1 per cent. commission disallowed on $29,000, in his last account, - - - - - - - -	290 00	
For 1 per cent. commission disallowed, for short commission on ditto, - - - - - - - -	70 64	
		11,494 16
Deduct this sum, due him per his last account, herewith,	$430 00	
Deduct short calculation in salary, - -	78	
		430 78
Balance due the U. States, per office statement, -		$11,063 38

TREASURY DEPARTMENT,
Fourth Auditor's Office, November 5th, 1829.
AMOS KENDALL.

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WASHINGTON, D. C., 5 *Nov.*, 1829.

SIR: I have received your letter of this date, enclosing a reconciling statement of my accounts, as settled in your office. By this document, I find that the item of $9,000 is exhibited as a charge against me, notwithstanding the receipt for that sum is on the margin of the deed of the land for which the money was paid. These, together with the order on which I made the payment, were left by me in the Navy Department.

It is but just that I should be credited with the payment made to Mr. Newton, or have the valuable property in my own right. I cannot suppose that the Secretary of the Navy, in his wisdom, anticipates this alternative, as I am advised that he has been expending large sums of money on the premises, and since he was fully apprized of the situation of the property. Neither can I suppose that it is the purpose of the officers of the Government to delay a just settlement of my accounts, with a view to countenance the slanders of my enemies. If I am to be further delayed and embarrassed, I have to request that a suit be commenced immediately.

I am advised that sundry documents in your office will be of service to me, in the prosecution of my claim before the Board of Commissioners of Navy Hospitals, for commissions on my disbursements; and I have the honor, therefore, to request that you will be pleased to direct me to be furnished with copies of them, accordingly. They are—

1st. The voucher for my payment to George Harrison, of $161 91, and which is numbered 2.

2d. The voucher for my payment to Wm. S. Rogers, of $180, and which is numbered 4.

3d. So much of Purser Butler's account, for the purchase of land near the navy yard, Brooklyn, N. Y., (on account of said commissioners) as will show the rate and amount allowed him as commission on the purchase.

I am, respectfully, &c.,

THOMAS FILLEBROWN, Jr.

AMOS KENDALL, Esq.

Fourth Auditor of the Treasury.

The Commissioners of Navy Hospitals, in account with Thomas Fillebrown, Jr., their Secretary.

Dr. Cr.

1826		Voucher.		1826		
Feb'ry	Cash paid J. and J. Williams -	1	$15 00	Feb'ry 6	By warrant No. 1, -	$77 50
July	Do. George Harrison -	2	161 91	May 1	Do. No. 2, -	62 50
August	Do. Davis and Force -	3	18 50	May 24	Do. No. 3, -	125 00
August	Do. W. S. Rogers -	4	180 00	July 12	Do. No. 4, -	161 91
October	Do. Pratt and Bicknell -	5	1,000 00	Aug'st 10	Do. No. 5, -	198 50
				Oct'r 24	Do. No. 6, -	1,000 00
	To my services as Secretary to the Board, from 7th May, 1825, to 6th November, 1826, inc. one year and six months, at $250 per annum - - -	-	375 00			
			$1,750 41			1,625 41
	Commission of one per cent. on $1,375 41 - - -	-	13 75		Balance -	138 75
			$1,764 16			$1,764 16
	To balance due T. F. jr., and carried to new account - -	-	$138 75			

Approved, 13th November, 1826. S. L. S.

E. E. TH. FILLEBROWN, Jr.

November 7th, 1826.

Thomas Fillebrown, Jr. (Secretary,) in account with Commissioners of Navy Hospitals.

Dr.					Cr.			
1826					1826			
February 6	To warrant No.	1,	-	$77 50	February	To paid J. and J. Williams, No. 1		$15 00
May 1	Do.	"	2, -	62 50	May 6	my services as Secretary, for		
May 24	Do.	"	3, -	125 00		year ending this day	-	250 00
July 12	Do.	"	4, -	161 91	July 14	paid George Harrison, No 2	-	161 91
August 10	Do.	"	5, -	198 50	August 24	do. Davis and Force, No. 3	-	18 50
October 24	Do.	"	6, -	1,000 00	Septem'r 24	do. Wm. S Rogers, No. 4	-	180 00
Novemb'r 13	Do.	"	7, -	100 00	October 31	do. Pratt and Bricknell, No. 5		1,000 00
Novemb'r 30	Do.	"	8, -	3,300 00	Novem'r 15	do. George Harrison, No. 6	-	100 00
December 5	Do.	"	9, -	200 00	Decem'r 14	do. Thomas Harris, No. 7	-	82 20
December 29	Do.	"	10, -	130 00	1827			
1827					January 6	do. Pratt and Bricknell, No. 8		3,000 00
January 16	Do.	"	11, -	10,793 94	January 19	do. George Harrison, No. 9	-	10,793 94
January 29	Do.	"	12, -	1,450 00	January 29	do. John Haviland, No. 10	-	300 00
January 30	Do.	"	13, -	300 00	March 2	do. John Haviland, No. 11	-	10,000 00
February 28	Do.	"	14, -	10,000 00	March 14	do. Wm. Strickland, No. 12	-	6,000 00
March 6	Do.	"	15, -	4,500 00	March 15	do. Thomas Harris, No. 13	-	101 34
March 13	Do.	"	16, -	101 34	March 24	do. Geo. Strickland, No. 14	-	75 00
March 21	Do.	"	17, -	75 00	March 31	do. Geo. Harrison, No. 15	-	1,200 00
March 29	Do.	"	18, -	1,200 00	May 4	do. John Haviland, No. 16	-	10,000 00
April 30	Do.	"	19, -	10,000 00	May 6	do. my salary for year	-	250 00
May 1	Do.	"	20, -	62 50	May 9	do. Wm. Strickland, No. 17	-	10,000 00
May 7	Do.	"	21, -	10,000 00	May 25	do. Geo. Harrison, No. 18	-	1,113 63
May 22	Do.	"	22, -	1,113 63	June 14	do. Wm. Strickland, No. 19	-	10,000 00
June 11	Do.	"	23, -	10,024 87	June 28	do. John Haviland, No. 20	-	10,000 00
June 21	Do.	"	24, -	10,000 00	July 7	do. Wm. Strickland, No. 21		10,000 00
July 5	Do.	"	25, -	10,000 00	August 22	do. John Haviland, No. 22	-	15,000 00
August 6	Do.	"	26, -	62 50		do. Wm. Strickland, No. 23	-	10,000 00
August 15	Do.	"	27, -	15,000 00	Septem'r 20	do. Wm. Strickland, No. 24	-	10,000 00

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STATEMENT—Continued.

August 20	To warrant No. 28, -	10,000 00
Septemb'r 17	Do. " 29, -	10,000 00
Septemb'r 26	Do. " 30, -	10,000 00
October 31	Do. " 31, -	562 50
Novemb'r 15	Do. " 32, -	300 00
1828		
January 3	Do. " 33, -	200 00
January 30	Do. " 34, -	1,450 00
February 29	Do. " 35, -	1,200 00
March 18	Do. " 36, -	3,550 00
April 11	Do. " 37, -	4,405 94
May 13	Do. " 38, -	5,000 00
June 9	Do. " 39, -	10,000 00
June 17	Do. " 40, -	25.100 00
October 3	Do. " 41, -	20,175 00
Novemb'r 13	Do. " 42, -	5,000 00
Novemb,r 24	Do. " 43, -	200 00
December 4	Do. " 44, -	63 52
December 11	Do. " 45, -	500 00
1829		
February 10	Do. " 46, -	1,100 00
March 2	Do. " 47, -	910 17
March 31	Do. " 48, -	20,000 00
		$229,856 32

October 6	To paid John Haviland, No. 25 -	10,000 00
Novem'r 2	do. Thomas Harris, No. 26 -	500 00
Novem'r 17	do. Thomas Harris, No. 27 -	100 00
1828		
February 29	do. John Haviland, No. 28 -	1,200 00
March 20	do. Wm. Strickland, No. 29 -	5,000 00
April 15	do. Wm. Strickland, No. 30 -	4,505 94
May 6	do. my salary for the year -	250 00
May 15	do. Wm. Strickland, No. 31 -	5,000 00
June 12	do. Wm. Strickland, No. 32 -	10,000 00
June 18	do. John Haviland, No. 33 -	15,000 00
July 17	do. Wm. Strickland, No. 34 -	10,000 00
October 6	do. Wm. Strickland, No. 85 -	10,000 00
October 7	do. John Haviland, No. 36 -	10,000 00
Novem'r 17	do. John Haviland, No. 37 -	5,000 00
Decem'r 4	do. J. Arnett, No. 38 -	63 52
Decem'r 16	do. T. Harris, No. 39 -	500 00
1829		
February 10	do. T. Harris, No. 40 -	1,000 00
February 6	To my salary for 3 quarters -	187 50
		$207,848 48
	Commissions 1 per cent. on amount disbursed - - -	2,007 84
		$209,856 32
April 4	Paid John Haviland, No. 41 -	10,000 00
April 14	do. Wm. Strickland, No. 42 -	10,000 00
		$229,856 32

Mr. Fillebrown, it appears, was appointed secretary in November 7th, 1825. He can be entitled to pay, as such, only from the date of his appointment. The allowance of one per cent. on the moneys disbursed, cannot be allowed, unless authorized by some existing law; none such is known to the commissioners; of course they cannot have authority to admit it.

J. H. EATON,
JOHN BRANCH.

September. 7, 1829.

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I certify the foregoing to be a correct transcript of the original on file, with report No. 226, dated 10th September, 1829.

TREASURY DEPARTMENT,
Fourth Auditor's Office, 22d May, 1830.
AMOS KENDALL.

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1833

The Commissioners of Navy Hospitals, Dr. to Thomas Fillebrown, Jr., their Secretary.

For my salary as secretary, from 7th February to 16th May, 1829, three months ten days, at $250 per annum,		$69 36
For my commission as disbursing officer on the following payments:		
1829, March 3, To T. Newton for land - - - - - -	$9,000	
" April 4, To J. Haviland, (advance) - - - - -	10.000	
" April 14, To W. Strickland, do. - - - - - -	10,000	
	$29,000 at one per cent.	290 00
For short charge of commission in act rendered 2d March, 1829, viz:		
On $207,848, 48 at one per cent. - - - - -	$2,078 48	
Deduct amount charged and incurred - - - - -	2,007 84	
	$70 64	70 74
		$430 00

E. E. TH. FILLEBROWN, Jr.

I certify the within to be a correct transcript of the original account of Thomas Fillebrown, Jr., on file in this office, with report No. 353, dated 31st October, 1829.

TREASURY DEPARTMENT,
Fourth Auditor's Office, December 7, 1829.

T. H. GILLISS,
Acting Fourth Auditor.

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TREASURY STATEMENTS.

1st. *Contracts made in* 1829.
2d. *Payments, Miscellaneous Claims.*
3d. *Payments, &c. Collectors' Revenue.*
4th. *Payments, sick and disabled seamen.*

FEBRUARY 9, 1830.

Read, and laid upon the table.

TREASURY DEPARTMENT,
February 8, 1830.

SIR: In obedience to the act "concerning public contracts," approved April 21, 1808, and the "act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments," approved the 2d of March, 1809, I have the honor to transmit—

First. Statement of contracts made during the year 1829.

Second. A statement of payments made according to law, at the Treasury of the United States, during the year 1829, for the discharge of miscellaneous claims, not otherwise provided for.

Third. A statement of the contracts and purchases made by collectors, for the revenue service, during the year 1828.

Fourth. A statement of the expenditure of the marine hospital fund, for the relief of sick and disabled seamen, during the year 1828.

I have the honor to be,
Respectfully, your obedient servant,
S. D. INGHAM,
Secretary of the Treasury.

Hon. SPEAKER *House of Representatives.*

STATEMENT of contracts made during the year 1829.

Date and duration of contract.	Object or thing contracted for.	Contractors' names.	Sum to be paid.	Places where to be performed or delivered.
February, 1829, to February, 1830	Medical services to sick and disabled seamen	Dr. C. A. Beatty -	$100 00	Georgetown, D. C.
2d of April, 1829 - - -	Erection of a custom-house at Portland, Me.	Nathan Howe, Henry Dyer, and Eben. Wilson -	14,035 00	Portland, Maine.
1st April, 1829, to 30th April, 1830	Lodging, boarding, medicines, and medical aid, to sick and disabled seamen -	Drs Martin and Matthews	1,083 33	Elizabeth City, N. C.
30th June, 1829, to 30th April, 1830	Do do do -	Board of Managers of Savannah Poor-house -	1,500 00	Savannah, Georgia.
17th of June, 1829 - - -	Erection of a custom-house at Newport -	William Tallman & James C. Bucklin - -	7,900 00	Newport, Rhode Island.
1st May, 1829, to 30th April, 1830 -	Lodging, boarding, medicines, and medical aid, to sick and disabled seamen -	Dr. Danforth P. Wight -	400 00	Barnstable, Mass.
30th Sept. 1829, to 30th April, 1830	Do do do -	Dr. R. Randolph -	466 67	Petersburg, Virginia.
30th Sept. 1829, to 30th April, 1830	Do do do -	Nathan Coral - -	266 00	Bath, Maine.
30th Sept. 1829, to 30th April, 1830	Medicine and medical aid to sick and disabled seamen - - - -	Dr. Timothy W. Waldron	23 34	Do
1st Oct. 1829, to 30th April, 1830 -	Lodging, boarding, medicine, and medical aid, to sick and dissbled seamen - -	Dr. Daniel Fisher -	95 00	Edgartown, Mass.
16th October, 1829 - - -	Building a revenue cutter - - -	Webb and Allen -	6,540 00	New York.
1st April, 1829, to 30th June, 1829 -	Supply of rations to crew of revenue cutter Vigilant - - - - -	John Cahoone, per ration	20	Newport, Rhode Island.
1st July, 1829, to 30th Sept. 1829 -	Do do do	Do do	20	Do do
1st October, 1829, to 31st Dec. 1829	Do do do	Do do	20	Do do
6th Nov. 1829, to 6th Jan. 1830 -	Do to revenue cutter Portsmouth	Charles Waldron -	13½	Portsmouth, N. H.

NOTE.—The Collector at Portsmouth was authorized, on the 20th of June, 1829, to contract for the purchase of a vessel, for the sum of 1,635 dollars, to be employed as a revenue cutter on the New Hampshire station. This, with other contracts in relation to the repairs of cutters and boats, for revenue purposes, will be included in the next annual report of the Register.

TREASURY DEPARTMENT, *February* 8, 1830.

S. D. INGHAM,
Secretary of the Treasury.

STATEMENT of payments made according to law, at the Treasury of the United States, during the year 1829, *for the discharge of Miscellaneous Claims not otherwise provided for; stated in pursuance of the act of* 3d *March,* 1809.

Warrants. No.	Warrants. Date.	In whose favor.	Amount.
	1829.		
2134	March 3,	To George Gibbs, for services in 1822, in taking an inventory and an account of all the Spanish documents and archives, - - - - - $135 00	
2134	" "	To John A. Cavedo, do. - - - - - - 81 00	
2134	" "	To John M. Fontaine, do. - - - - - - 81 00	
			297 00
2135	" "	To James G. Ringgold, Attorney of the United States for the Middle District of Florida, for his compensation for arguments before the Court of Appeals for the Territory of Florida, in the case of the Register and Receiver against Robinson & Swearingen, and Lewis Gregory, - - - - - - - - - - -	300 00
2136	" "	To William Wirt, for his fee in the case of the United States against the Bank of Somerset, in the Circuit Court of the United States for the District of Maryland, - - -	500 00
2137	" "	To Fulwar Skipwith, for sundry expenses incurred and defrayed by him, in Paris, in the prosecution of the claim of the United States against the estate of Joseph J. Miller, one of the firm of Whelan & Miller, for the sum of $23,616 50, - - - - -	299 06
2139	" "	To Richard S. Coxe, for his professional services in assisting the Attorney General at a session of the Supreme Court of the United States, January term, 1827, in three cases in which the United States were parties, - - - - - - -	750 00
2140	" "	To Benjamin L. Lear, for his professional services in the negotiation and conveyance in relation to the Northumberland estate, in Virginia, and in relation to the proper conveyance of two houses on Greenleaf's Point, from the Columbian College to the United States, -	80 00

Warrants. No.	Warrants. Date.	In whose favor.	Amount.
	1829.		
2142	March 3,	To Samuel Fry, for his services as clerk in the office of the Secretary of West Florida, from 31st July to 7th October, 1821, - - - - - - - - -	207 00
2145	" "	To Henry Eddy, for balance due to him for drafting a bill in chancery against the corporation and individuals composing the President, Directors & Company of the Bank of Edwardsville, its trustees and debtors, and prosecuting the same in the District Court of Illinois, from April, 1825, to June, 1828, including expenses of all kinds, - -	400 00
2146	" "	To Henry M. Breckenridge, for services in examining the translations of two folio volumes, containing about 900 pages, of all the documents relating to lands in West Florida, commencing 1st November, and ending the 1st December, 1828, - - - - -	120 00
2147	" "	To Henry M. Breckenridge, for services rendered as interpreter and translator to the Governor of Florida, from 17th July, to the 8th October, 1821, - - - - -	225 00
2182	" 10,	To John H. Owen, Receiver of Public Moneys at St. Stephens, for his services in discharge of his duties under the provisions of an act of Congress confirming the reports of the Register and Receiver at St. Stephens, passed the 2d March, 1829, - - - -	250 00
2202	" 14,	To Thomas Scott, Attorney and Agent for the Treasury Department in the ejectment case of the lessees of Duncan McArthur, vs. John Reynolds, &c. for his services and expenses,	1,023 20
2141	" 3,	To William Clark, agent in transmitting cents to Banks and Custom Houses, for amount of his payments to his agent, James Rush, for payments made by him, for freight, insurance, cooperage, porterage, &c. including his agent's commission on $13,961 24, 559 15	
2387	April 6,	Same, - - - - - - - - 116 19	
			675 34

335	July 23,	To James Rush, agent for the Treasurer of the United States for ditto, including commission on $8,475, - - - - - - - - - - - -	104 59	
744	Oct. 20,	Same, - - - - - - - - - - - -	182 39	
				286 98
2449	April 29,	To William Doherty, for amount paid by him in pursuance of instructions from the Secretary of the Treasury of the 27th August, 1827, for taxes due for the year 1828, on lands of the late Charles Simms, situate in the State of Ohio, and for information respecting said lands, with which sum Charles Simms, late Collector of Alexandria, is to be charged,		59 75
102	June 25,	To Edgar Macon, for professional services rendered in the case of the libel filed in the Superior Court of the Southern Judicial District of Florida, against the United States' revenue cutter Marion, - - - - - - - - - - - -		100 00
334	July 22,	To William Phillips, for amount paid by him pursuant to instructions, for taxes and costs, for the years 1826 and 1827, on two-thirds of a tract of land, containing 50¾ acres, in Toby township, Pennsylvania, levied on by the United States as the property of Francis Johnson, one of the securities of Sharp Delany, late Collector of the Customs, Philadelphia, - - - - - - - - - - - -		23 75
52	Sept. 18,	To John M. Berrien, Attorney General, for his expenses and services to and at New York, in examining into the affairs of the house of Thomas H. Smith & Son, - - - -		500 00
733	Oct. 17,	To Olmsted & Bailhache, being for publishing in the Ohio State Journal the notice of the Surveyor of the Virginia Military Land District, in the State of Ohio, as required by the act of 24th February, 1829, - - - - - - - - -		5 00
832	Nov. 20,	To Benjamin Cowell, Clerk of the District Court of the United States for Rhode Island, being the expense incurred by him in 1828, in advertising "an act extending the time for the redemption of land sold for direct taxes," - - - - - -		8 25
		Dollars,		6,110 33

TREASURY DEPARTMENT,

Register's Office, January 16, 1830.

T. L. SMITH, *Register.*

A STATEMENT of Contracts and Purchases made by

COLLECTORS.	DISTRICTS.	CONTRACTORS, OR FROM WHOM PURCHASED OR HIRED.
Stephen Thacher -	Passamaquoddy	H. D. Hunter - - -
		Lemuel Crackbon - -
		Robert Huston - - -
		C. Noyes and Gideon Stetson -
Samuel A. Morse -	Machias -	D. Sawyer - - -
Josiah Hook -	Penobscot -	William Foster - -
Daniel Lane -	Belfast -	Joshua Dillingham - -
John B. Swanton -	Bath -	Cornelius Jarber - -
Isaac Ilsley -	Portland -	Ruel Drinkwater - -
		Lemuel Dyer - -
		Wyre Nobb & Co. - -
Timothy Upham -	Portsmouth -	William Pearce - -
H. A. S. Dearborn -	Boston -	Samuel R. Trevett - -
		B. Dearborn, and A. Babcock & Co.
Russell Freeman -	New Bedford	W. White and others - -
Thomas Cook, jr. -	Edgartown -	W. Cranston & Son, and William Coffin - - -
Nathaniel Bullock -	Bristol -	James Coit and W. H. Pitman -
Christopher Ellery -	Newport -	John Cahoon - - -
Richard Law -	New London -	Frederick Lee - - -
Mathew Myers -	Oswegatchie -	Ab. S. Cummins - -
Jonathan Thompson	New York -	Henry Cahoon and others -
Thomas Forster -	Presque Isle -	Justice & Richards and others -
William Jones -	Philadelphia -	W. W. Polk and others -
Allen McLane -	Delaware -	Peter Maull - - -
James H. M'Culloch	Baltimore -	J. A. Webster and others -
Moses Myers -	Norfolk -	J. M'Kenzie, J. S. Westwood, and others - - -
James R. Pringle -	Charleston -	Jos. Doan, Wilkie, and others -
John Stevens -	Savannah -	Thomas Payne - - -
		Bradley, Cleghorn, and Wood -
		Rahn & Ryerson, and others -
John N. M'Intosh -	Brunswick -	Jacob Roenbaugh - -
Archibald Clarke -	St. Mary's -	John Stotesburg - -
William Pinkney -	Key West -	W. & E. De La Montague -
David L. White -	Appalachicola	Samuel Shannon and others -
Addin Lewis -	Mobile -	G. Harrison and Wm. Foster -
		Joseph Hall & Co. - -
		Henry Spearing - -
		J. Campbell, P. Launsury, and others - - -

Collectors for the Revenue Service during the year 1828.

VESSELS IN THE SERVICE, INCLUDING CUTTERS.						
Payments for vessels purchased.	VESSELS HIRED.			Supplies, including rations.	Weights, scales, gauging instruments, &c.	TOTAL.
	Rate per month.	Time. *Mo. Ds.*	Paym'ts.			
-	-	-	-	2,287 95	-	3,181 04
-	-	-	-	181 82	-	
-	-	-	-	471 68	-	
-	-	-	-	239 59	-	
13 00	-	-	-	-	-	13 00
100 00	-	-	-	-	-	100 00
67 00	-	-	-	-	-	67 00
-	-	56	51 12	-	-	51 12
-	-	-	-	682 60	-	809 60
107 00	-	-	-	-	-	
-	-	-	-	-	20 00	
-	5 00	6 00	30 00	-	-	30 00
-	-	-	-	1,830 00	-	2,669 25
-	-	-	-	-	839 25	
130 00	-	-	-	-	-	130 00
210 00	-	-	-	-	-	210 00
72 69	-	-	-	-	-	72,69
-	-	-	-	1,063 26	-	1,063 26
-	-	-	-	1,182 51	-	1,182 61
30 00	-	-	-	-	-	30 00
-	-	-	-	3,359 81	781 85	4,141 66
3,661 86	-	-	-	-	-	3,661 86
124 00	-	-	-	6,635 65	97 00	6,856 65
66 00	-	-	-	-	-	66 00
-	-	-	-	3,229 34	58 90	3,288 24
-	-	-	-	3,773 13	-	3,773 13
333 87	-	-	-	8,534 90	25 00	8,893 77
-	-	-	-	1,837 75	-	3,536 72
-	-	-	-	1,335 29	-	
-	-	-	-	272 20	91 48	
-	-	-	-	823 50	-	823 50
-	-	-	-	638 17	-	638 17
100 00	-	-	-	-	-	100 00
-	-	-	-	37 71	-	37 71
-	-	-	-	4,534 06	-	6,286 84
-	-	-	-	703 11	-	
-	-	-	-	545 74	-	
-	-	-	-	503 93	-	

STATEMENT—

COLLECTORS.	DISTRICTS.	CONTRACTORS, OR FROM WHOM PURCHASED OR HIRED.
Beverly Chew -	New Orleans -	J. Jacks and J. Doane - -
		Robert Layton - - -
		R Garrison and others - -
		John A. Merle - - -
		Forster and Hutton - -
Robert Mitchell -	Pensacola -	N. Allen and others - -

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Continued.

VESSELS IN THE SERVICE, INCLUDING CUTTERS.						
Payments for vessels purchased.	VESSELS HIRED.			Supplies, including rations.	Weights, scales, gauging instruments, &c.	TOTAL.
	Rate per month.	Time. *Mo. Ds.*	Pay'm'ts.			
-	-	-	-	2,658 92	-	
-	-	-	-	1,299 76	-	
-	-	-	-	293 25	-	4,527 06
-	-	-	-	-	162 23	
112 90	-	-	-	-	-	
-	-	-	-	86 71	-	86 71
5,128 32	5 00	6 56	81 12	49,042 34	2,075 71	56,327 49

TREASURY DEPARTMENT, *December* 29, 1828.

T. L. SMITH, *Register.*

STATEMENT of contracts made relative to Lighthouses, Floating Lights, Beacons, Buoys, Stakeages, &c.

DATE.	OBJECT.	CONTRACTORS.	PRICE.
1827.			
Dec. 1	Building a house for the keeper of Cape Hatteras lighthouse -	Pharoah Farrow - -	$1,200 00
1828.			
Aug. 12	Building a lighthouse, dwelling-house, &c. on Cove Point, in Maryland	John Donahoo - -	5,685 00
4	Fitting up do. with patent lamps, reflectors, &c. - -	James Geddes - -	550 00
27	Building a lighthouse and dwelling-house at Portland harbor, on Lake Erie, in New York - - - - - - -	Thomas B. Campbell -	2,700 00
"	Fitting up lighthouse, with patent lamps, reflectors, &c. - -	Thomas B. Campbell -	650 00
Sept. 6	Building a lighthouse and dwelling-house on Pamptico Point, N. C.	Benjamin Runnyon -	4,950 00
Nov. 1	Fitting up do. with patent lamps, reflectors, &c. - -	Winslow Lewis - -	700 00
Sept. 15	Rebuilding floating-light vessel, stationed at Smith's Point, in Va. -	Isaac Talbot - -	4,000 00
Dec. 22	Erecting a tower with a bell and clock machinery, on Pool's Island,		
1829.	in Maryland - - - - - - - - -	William Simpson - -	1,900 00
Mar. 10	Fitting up the lighthouse on the West chop of Holmes' Hole with new patent lamps, reflectors, &c. - - - - - -	Winslow Lewis - -	245 00
April 10	Placing and keeping stakes, buoys, and flag staffs in Providence river	Asa Armington - -	132 00
30	Building a lighthouse, dwelling-house, &c. near fort Gratiot, in Michigan Territory - - - - - - - -	Lucius Lyon - -	4,700 00
May 11	Erecting a beacon on Spindle Rock, at the mouth of Black Rock harbor, in Conn. - - - - - - - -	Seymour Taylor - -	5,000 00
18	Erecting a tower, with a bell and machinery, near the lighthouse, at Beaver Tail, R. I. - - - - - - - -	David Melville - -	1,140 00
23	Building a lighthouse and dwelling-house at the mouth of St. John's river, in the Territory of Florida - - - - - -	Winslow Lewis, Benjamin Beal, and Jarius Thayer -	9,400 00
June 6	Fitting up lighthouse, with patent lamps, reflectors, &c. - -	Win-low Lewis - -	800 00
May 23	Building a lighthouse and dwelling-house near St. Mark's harbor, in the Territory of Florida - - - - - - -	Winslow Lewis, Benjamin Beal, and Jarius Thayer -	10,500 00

June 6	Fitting up lighthouse, with patent lamps, reflectors, &c. - -	Winslow Lewis - -	900 00
19	Building a dwelling-house and two lighthouses on the northwest point of Block Island - - - - -	John Clark & Henry Eldred	3,700 00
July 11	Fitting up do. do. with patent lamps, reflectors, &c. - -	Winslow Lewis - -	600 00
6	Building a dwelling-house and lighthouse on Hendricks' Head, in Me.	Joseph Berry - -	1,883 00
Aug. 1	Erecting a monument on the eastern point of the harbor of Gloucester, in Mass. - - - - - - - - -	Ebenezer Bent - -	1,040 00
6	Erecting a monument on a rock near Swamscott, in Massachusetts -	Winslow Lewis - -	1,000 00
10	Building a lighthouse and dwelling-house at or near Back river point, in the Chesapeake bay, in Virginia, and fitting up the lighthouse with patent lamps, reflectors, &c. - - - - - -	Winslow Lewis - -	4,250 00
Sept. 5	Building a lighthouse and dwelling-house near Otter creek point, in Michigan Ter., and fitting up the lighthouse with patent lamps, &c.	Charles Jackson - -	3,673 00
10	Building two lighthouses and two dwelling-houses on the flats two miles north of Kinderhook upper landing, called the drowned lands, in New York - - - - - - - - -	Walter Butler - -	5,800 00
Oct. 10	Building stone walls to secure the bank of the lighthouses, near Kinderhook - - - - - - - - - -	Walter Butler - -	1,067 00
Dec. 15	Building a lighthouse and dwelling-house at Cleaveland, on Lake Erie, in Ohio, and fitting up the lighthouse with patent lamps, reflectors, &c.	Levi Johnson and Stephen Woolverton - -	3,997 00
Oct. 5	Stakeage in Core Sound, including Old Topsail Inlet to Beaufort, in N. Carolina, - - - - - - - - -	James N. Styron - -	29 75
9	Ditto in Albemarle Sound, Crocton Shoals, Marshes, &c. placing buoys, &c. do. - - - - - - - -	Joseph Rollins - -	170 00
Nov. 6	Ditto of the swashes, Wallace's channel, Upper roads, Teaches' hole, &c. placing buoys, &c. North Carolina - - - - -	Benjamin Mason - -	179 00
25	Ditto from the mouth of Pamptico river, including Pungo river, to Washington, North Carolina - - - - - -	David Watson - -	49 00
Dec. 4	Ditto from the mouth of Neuse river to Newbern, North Carolina -	Arvin Sampson - -	30 00

TREASURY DEPARTMENT, FIFTH AUDITOR'S OFFICE, *January* 30, 1830.

S. PLEASONTON, *Acting Com. Revenue.*

STATEMENT of the expenditure of the Marine Hospital Fund,

Ports.	Agents.	Amount of expenditure.	Number admitted.	Time for which the returns were made.
Belfast -	Daniel Lane	$ 52 05	4	2d & 3d quarters
Waldoborough -	Denny M'Cobb	315 64	7	1st, 2d, & 4th qrs.
Wiscasset -	Francis Cook	213 72	7	3d & 4th qrs.
Bath - -	Jno. B. Swanton	608 02	7	4 qrs.
Portland -	Isaac Ilsley	1,300 07	-	Do.
Passamaquoddy	Steph. Thacher	190 28	7	3d & 4th qrs.
Kennebunk -	G. Wheelwright	6 06	1	3d qr.
Portsmouth -	Timothy Upham	432 53	34	4 qrs.
Penobscot -	Saml. R. Gilman	98 53	2	2d & 3d qrs.
Barnstable -	Isaiah L. Green	404 00	4	4 qrs.
Newburyport -	James Prince	10 10	5	2d, 3d, & 4th qrs.
Gloucester -	Wm. Pearce	100 49	4	1st, 3d, & 4th qrs.
Holmes' Hole -	Thos. Cooke	343 40	-	4 qrs.
Boston -	H. A. S. Dearborn	8,102 97	477	4 qrs.
Providence -	Thos. Coles	1,082 12	61	Do.
Bristol & Warren	Nathl. Bullock	310 94	11	Do.
Newport -	Chris. Ellery	622 37	12	Do.
New London -	Rich. Law	239 58	11	Do.
Middletown -	Henry Wolcott	148 29	11	Do.
Sag Harbor -	Hen. T. Dering	13 52	2	3d qr.
New York -	Jona. Thompson	13,668 01	927	4 qrs.
GreatEggHarbor	Gideon Leeds	681 38	35	4th qr. & 1st 1829
Philadelphia -	Wm. Jones	8,786 80	361	4 qrs.
Baltimore -	Jas. H. M'Culloh	6,543 79	179	Do.

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for the relief of sick and disabled seamen, for the year 1828.

Place of admittance.	Rate of expenditure.	Remarks. 1 per ct. commission allowed the Agents in all cases.
Private houses	$2 50 per week	With passage money and doctor's bill.
Do.	1 to 2 do	With doctor's bill, &c.
Do.	2 to 3 do	With do. and passage money, &c.
-	- -	Amount paid to the steward, physician, &c. per agreement for the year.
-	- -	Amount received, paid to the overseers of the poor, by contract, for the relief of the sick and disabled.
Private houses	- -	With physician's bill, for visits and medicine, funeral expenses, &c.
Do.	33⅓ cts. per day	With passage money to Boston.
Do.	$2 50 to 2 80 per w.	With do. doctor's bills, funeral expenses, &c.
Do.	2 50 to 3 50 do.	With physician's bills, visits, and medicine.
-	- -	With physician, $ 400 per annum, by agreement.
-	- -	Passage money, and stage to the hospital.
Private houses	2 50 to 4 do.	With doctor's bills, &c.
-	- -	Boarding and all other expenses, per agreement per year, for all that arrive at the port.
Chelsea hospital	All expenses	Physician, $ 1,000 per annum, steward, $ 500, medicine, passage money, &c.
Private houses	- -	Doctor's visits, medicine, funeral expenses, &c.
Do.	2 to 2 50 per wk.	Passage money and funeral expenses, with doctor's bill.
Hospital	2 50 to 3 do.	Physician, $ 400 per annum, passage money, &c.
Private houses	2 50 do.	Physician, $ 150 per annum.
Do.	2 to 2 50 do.	Do. attendance and medicine, passage money and funeral expenses.
Do.	- -	Do. do. do.
Hospital	3 per week	All expenses, superintendent, $ 250, funeral expenses, $5 each—74 deaths.
Private houses	1 50 to 3 do.	Doctor's bills for visits and medicine, with funeral expenses.
Penn. hospital	50 cts. per day	Including all expenses, except funerals and clothing, these separate charge.
Marine hospital	- -	Including all expenses, with $ 31 passage money, and $60 extra medicine.

STATEMENT—

Ports.	Agents.	Amount of expenditure.	Number admitted.	Time for which the returns were made.
Georgetown -	Thos. Turner	$204 00	14	4 qrs.
Alexandria -	Humph'y Peake	245 76	22	Do.
Tappahannock -	Jno. Dangerfield	643 23	21	Do.
City Point -	Jas. Robertson	454 71	-	1st & 2d qrs.
Norfolk -	Moses Myers	2,630 14	-	4 qrs.
Richmond -	James Gibbon	478 16	-	Do.
Elizabeth City -	Asa Rogerson	1,053 21	17	Do.
Wilmington -	James Owen	188 87	20	Do.
Washington -	Thos. H. Blount	181 74	9	Do.
Newbern -	Francis Hawkes	359 89	24	1st, 2d, & 3d qrs.
Ocracoke -	Joshua Taylor	765 07	-	2d & 3d qrs.
Plymouth -	Levi Fagan	78 67	6	4 qrs.
Edenton -	Saml. Tredwell	-	-	No returns.
Beaufort -	James Manney	64 89	2	3d qr.
Charleston -	James R. Pringle	3,994 58	-	4 qrs.
Georgetown -	Thos. L. Shaw	38 38	1	3d qr.
Savannah -	John Stephens	2,373 24	-	4 qrs.
Darien -	Jno. N. McIntosh	22 72	1	4th qr.
St. Augustine -	Jno. Rodman	150 87	4	2d, 3d, & 4th qrs.

Continued.

Place of admittance.	Rate of expenditure.	Remarks. 1 per ct. commission allowed the Agents in all cases.
Private houses	$2 to 3 per week.	Doctor's bill, $ 100 per annum.
Alms house	- -	Board, medical attendance, &c.
Private houses	2 50 to 3 do.	With doctor's bills, attendance and medicine.
Do.	- -	No returns of the number of men, nor of their expenses. This charge for doctor's salary.
Marine hospital	- -	Including all expenses, with physician's salary, $ 840 per annum.
Do.	- -	Do. physician & superintendent, per contract, $ 450 per annum, and bill of medicine.
Private houses	1 25 to 2 50 per w.	Number of men for 1st quarter, doctor's bills and medicine 2d, 3d, & 4th quarters, by contract, at $ 225 per quarter.
-	50 cts per day	Including board, medical attendance, &c.
-	$3 per week	With doctor's bill, and medicine.
-	Do.	Do. and funeral expenses.
-	- -	Supported by contract, at $ 1,500 per annum, funeral expenses added.
-	1 50 to 2 per week	With doctor's bills, medicine, funeral expenses, and passage money.
-	50 cts. per day	Board, &c. medical visits, and medicine.
-	- -	This sum includes moneys paid city Treasurer, and payments made for the sick on board the revenue cutter Marion, and some other charges. Contract with the city to pay all expenses in the port, for moneys received by the Collector for this object.
-	$3 per week	With doctor's bill, for visits and medicine.
-	- -	Supported by contract 1st & 2d quarters, at $ 2,500 per annum, 3d & 4th, at $ 1,800, and $ 100 per Inspector, with funeral expenses and passage money.
-	3 per week	Board and nursing.
-	Do.	With doctor's bill, medicine, and passage money.

STATEMENT—

Ports.	Agents.	Amount of expenditure.	Number admitted.	Time for which the returns were made.
Pensacola -	Robt. Mitchell	$ 65 64	10	2d, 3d, & 4th qrs.
Mobile -	Addin Lewis	604 29	28	4 qrs.
New Orleans -	Beverly Chew	7,708 06	324	4th qr.
Key West -	Wm. Pinckney	496 11	24	4 qrs.
		67,076 89	2692	

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Continued.

Place of admittance.	Rate of expenditure.	Remarks. 1 per ct. commission allowed the Agents in all cases.
-	$1 25 per day	Attendance.
City hospital	50 to 75 cts. per day	Including all expenses, doctor's visits on board vessels, medicine, and funeral expenses.
Hospital	75 cts. per day	Physician's salary, $1,000 per annum; also, charge for apothecary and matron; also included $250 for 1st & 2d quarters, for 30 men at Louisville hospital, allowed by direction of the President of the U. States.
-	$4 to 5 per week	Doctor's bill, medicine, and funeral expenses.

TREASURY DEPARTMENT,
REGISTER'S OFFICE, 16*th Jan.* 1830.

T. L. SMITH, *Register*

NAVY DEPARTMENT,

2d March, 1829.

SIR: It was my intention before I left the department, to have submitted to the consideration of the other Commissioners of the Navy Hospital Fund, your claim and account for compensation for attending to the disbursement of the moneys of the fund, which have passed through your hands since your appointment as Secretary. I consider the claim perfectly just, and do not doubt but a fit compensation would have been made, could the question have been submitted to the board. Neither the responsibility nor the labor are embraced within your duties as secretary, and if any other person had been appointed to perform them, an allowance must neeessarily have been made to him.

I do not doubt when the commissioners shall understand the merits of the claim, that no hesitation will be felt on the subject.

Nothing but my severe and protracted indisposition during the whole winter, has heretofore prevented its adjustment.

I am respectfully, &c.

SAM. L. SOUTHARD.

THOMAS FILLEBROWN, Esq.
Sec. Nav. Hos. Fund, Washington.

Deposition of John H. Eaton.

Questions to be propounded to the Hon. John H. Eaton, Secretary of War, and one of the Commissioners of Navy Hospitals, which, with the answers thereto, are to be given and received as evidence on the trial of the suit instituted against Thomas Fillebrown, jr.

Question 1st. Has it not heretofore been, and is it not now the practice of the Government, in the service connected with the War Department, to allow to officers called on to make disbursements of public money, other than such as comes within their usual and proper duties, to allow a premium or per centage on such disbursements; and is not two and an half per centum the usual allowance in such cases?

Answer. Officers of the Engineer Corps superintending "fortifications," are, by regulation of the War Department, allowed two dollars extra a day, upon condition that it shall not exceed 2 and ½ per cent. upon the amount by them disbursed—principals too, engaged on topographic duty, are placed upon the same footing as those who are in the superintendence of fortifications. This does not extend to Assistant Quartermasters and Commissaries. When thus acting, they are authorized to receive not exceeding twenty dollars a month.

Question 2d. Before you placed your official signature to the remarks appended to Mr. Fillebrown's account, (upon which account the suit now pending is based,) was he called on for explanation, or were any vouchers or papers relative thereto examined by you, and did you examine the merits of his claim before signing said remarks?

Answer. I do not now recollect the particulars of Mr. Fillebrown's account, or the grounds and reasons upon which I decided. His claim, I believe, rested upon an allowance of —— per cent. for disbursements of pub-

lic moneys—the hospital fund. His demand for this allowance is based on the ground, that it is a usage of the Government. Had any established regulations been produced to me, I should have felt myself authorized to admit the force of them, and to be controlled by them.

Question 3d. Did you not, at the time of signing said paper, consider it a matter of official form, to give validity to a transaction, the particular details of which were more immediately the duty of other officers of the Government; and had you been called on to examine into the merits of the case, as subsequently explained to you by the papers exhibited by Mr. F., would you not have considered his charges reasonable and proper?

Answer. I did not consider it "matter of official form." I did not act upon such grounds. My reasons were these: unacquainted with the rules and practice of the Navy Department, which more particularly had charge of the hospital fund, under and by virtue of the practice of the Government, I was uninformed of any settled and established practice, and hence looked as a guide to what the law directed. In the acts of Congress regulating this disbursement, I could find no authority sanctioning it, nor was I apprised of any settled practice of the Government which gave it sanction. There are many *regulations* as to allowances, (I speak in reference to the War Department,) which. as regards disbursements, have and do receive all the force and effect of enactments by Congress. Officers superintending fortifications, or principals employed on topographic duty—officers with brevet rank conferred; those detailed for duty in the military bureau offices, all receive additional allowances, which grow out of regulations of the department, and are not the result of any enacted laws upon the subject. Double rations, and the commutation of them in the several bureaus attached to the War Department, are matters of regulation heretofore in former times established, and not of legislative enactment.

June 7th, 1830. In my own hand writing are the answers.

J. H. EATON.

George W. Dashiell's evidence.

It was proved by Geo. W. Dashiell, on the part of the United States, that William Brown was a clerk in the State Department upon a fixed salary; and that Edward Jones, John Laub, Enoch Reynolds, William Parker, John Wells, jr. George Macdaniel, Nicholas Harper, and himself, were clerks in the Treasury Department, in the year 1828, upon fixed salaries; and that Samuel D. King was a clerk in the General Land Office; and that Lewis Edwards, Nathaniel Fry, Nathan Towson, Brooke Williams, Thos. G. Ringgold, Wm. Wade, Alfred Mordecai, and Trueman Cross, were all clerks in the War Department upon fixed salaries; and that Benjamin Homans was a clerk in the Navy Department also upon a fixed salary; and that the moneys for the payment of clerk hire in those departments were disbursed by these officers; and that Peter Hagner, the 3d Auditor, and Roger Jones, the Adjutant General, and Alexander McComb, Chief Engineer, and that Mr. Suter, a clerk in Post Office, under the direction of the Postmaster General, annually disbursed the moneys necessary for the contingent expenses of their departments: and the said witness further proved that he was and is still a clerk in the Treasury Department, and that the warrants of these disbursements pass through his hands into the hands of the different

clerks and officers, who are to disburse them as above, and that he has no knowledge that any commission or compensation was ever paid or allowed by the Government for these disbursements.

The accounts of said officers, not passing through the hands of witness, he has no knowledge whether or not they either claimed or received any compensation in the shape of commissions or otherwise, for making said payments. The said several officers, in making said payments, and keeping said accounts, were always understood to be performing duties properly appertaining to the offices they respectively held.

George Macdaniel's evidence.

George Macdaniel proved that he had been, for about twenty years, a clerk in the office of the Fourth Auditor; that he disbursed the contingent funds of the navy, as special agent of that department; and, during the said period, he regularly settled his accounts, charged a commission on said disbursements, which was always allowed until about the time of his ceasing to perform the said duties in 1829: That, during the same period, he also paid to the several clerks in the Fourth Auditor's office, their salaries: this he always considered an official duty; and he never either charged or received a commission therefor.

And before the jurors aforesaid withdrew from the bar of the court here, the said United States, by their attorney aforesaid, filed in court here, the following second bill of exceptions, to wit:

Second bill of exceptions.

THE UNITED STATES
against
THOMAS FILLEBROWN, Jr.

Upon the trial of this cause, the defendant offered to prove, by the testimony contained in the preceding bill of exceptions, the general usage of the different departments of the Government, in allowing commissions to the officers of Government upon disbursements of money under a special authority not connected with their regular official duties. The counsel of the United States objected to the admission of parol evidence to prove such usage. But the court permitted the evidence to be given, and the same was given accordingly. To which opinion and admission of the court, the plaintiffs, by their counsel except, and this their bill of exceptions; is signed, sealed, and ordered to be enrolled this 26th of May, 1831.

WILLIAM CRANCH, [SEAL.]
JAMES S. MORSELL, [SEAL.]

EXTRACT

FROM

STATEMENT

SHOWING

The names and the amount paid to officers of the army of the United States for extra services, to whom paid, and for what; and where employed, in the years 1822, '23, '24, *and* '25: *ascertained from accounts settled in the office of the Third Auditor.*

Bankhead, James, Major.	Two	r an

Extract from "statement showing the names and the amount paid to officers of the army of the United States for extra services, to whom paid, and for what; and where employed, in the years 1822, 1823, 1824, and 1825; ascertained from accounts settled in the office of the Third Auditor, prepared in pursuance of a resolution of the House of Representatives of 6th March, 1826," (being report of the Third Auditor, document 41, House Representatives, 19th Congress, and second session, referred to in exceptions, at page 22.)

Names and rank.	Purposes, places, and periods.	Amount.
Abert, J. J., Major.	Per diem while surveying Potomac canal, from 1st July to 8th October, 1824 - -	$141 00
	Do. while on topographical duty, surveying from 24th May to 4th August, 1823 -	124 50
	Do. while surveying Chesapeake and Ohio canal, from 27th September to 15th November, 1825 - - - - - - - -	75 00
	Commissions on disbursements in relation to said canal, in the 2d, 3d, and 4th quarters of 1825	161 27
		$501 77
Bernard, Simon, General.	Extra services as member of the Board of Engineers in January and February, 1822 -	$265 50
	Do. do. from 11th March to 30th April, 1822 - - - - -	274 50
	Do. whilst surveying Chesapeake and Delaware canal, from 15th to 27th July, 1823 -	58 60
	Do. do. from 17th September to 31st December, 1823 - - - -	477 00
	Do. whilst surveying the harbor of Erie, from 28th July to 6th September, 1823 -	229 50
	Do. on survey, &c., from 7th May to 31st July, 1824 - - - -	387 00
	Do. whilst engaged on canal routes from the Ohio to lake Erie, and from Pittsburg to Philadelphia, from 1st August to 31st October, 1824 - - - -	414 00
	Do. whilst employed in relation to a canal across the isthmus of Cape Cod, and between Boston harbor and Taunton river, from 1st November to 11th December, 1824	180 00
	Extra services as member of the Board of Engineers, 14 days, between the 5th August and 31st October, 1825 - - - - - - - -	63 00
	Do. on Chesapeake and Delaware canal, from 1st to 24th January, 1824 - -	108 00
		$2,457 10

Bankhead, James, Major.	Two and a half per cent. commission on his disbursements at Fort Moultrie in the first and second quarters of 1822 - - - - - - - - -	$67 36
	Do. do. in the first quarter of 1824 - - - - - - -	2 62
	As member of a court martial at New London, in June, 1822 - - - -	99 66
		$169 64
Burch, E., Daniel, Captain.	Two and a half per cent. on disbursements in the Quartermaster's Department at Louisville, Kentucky, in the third quarter of 1822 - - - - - -	$49 93
	As witness to a court martial at Baton Rouge, in February and March, 1823 - -	157 20
	Per diem allowance of three dollars per day for marking out a road from Pensacola to St. Augustine, from 21st October to 30th December, 1823 - - - -	234 00
		$441 13
Babcock, Samuel, Major.	Two and a half per cent. on his disbursements at Fort Delaware during the year 1822 -	669 52
	Per diem allowance for do. from 1st January to 31st October, 1823 - - -	608 00
	Two and a half per cent. commission on do. from 27th January to 30th September, 1824	300 73
	Two and a half per cent. commission on disbursements in relation to the Ohio and Mississippi rivers in 1825 - - - - - - - - -	36 36
		$1,614 61
Bache, Hartman, Captain.	Per diem whilst employed surveying coast of South Carolina, from 15th February to 18th April, 1822 - - - - - - - - -	$94 50
	Do. whilst surveying from 12th August to 3d November, 1822 - - -	126 00
	Do. do. from 6th March to 6th June, 1823 - - - - - -	139 50
	Do. do. Susquehanna, from 26th July to 31st August, 1823 - - -	55 50
	Do. do. coast of South Carolina, from 10th February to 26th May, 1824 - -	160 50
	Do. do. do. from 24th December, 1824, to 29th June, 1825 - - -	282 00
	Do. do. at Holmes' Hole, Mass., from the 4th to 19th November, 1825 - -	24 00

EXTRACT—Continued.

Names and rank.	Purposes, places, and periods.	Amount.
Bache, Hartman, Captain.	Two and a half per cent. commission on his disbursements at Charleston, S. C., from 26th March to 30th September 1825 - - - - - - -	133 22
	Do. do. do. at Holmes' Hole, in four quarters of 1825 - - - -	4 67
		$1,019 89
Bradford, William, Major.	Two and a half per cent. commission on disbursements made by him at Fort Smith, from the 1st January, 1818, to the 28th February, 1822 - - - - -	$90 17
Brewerton, Henry, Lieutenant.	Two and a half per cent. commission on disbursements at Fort Jackson in the second quarter of 1823 - - - - - - - - -	$94 05
	Do. do. do. at Mobile Point in the third quarter of 1823 - - - -	65 75
	Do. do. do. do. first quarter of 1824 - - - - - -	7 50
	Extra pay for issuing provisions at Fort Jackson from the 6th to 30th November, 1824 -	16 16
	Per diem allowance as disbursing officer, &c., at New York, from the 1st April to 30th June, 1824, on account of fortifications - - - - - -	182 00
		$365 96
Brown, Jacob, Lieutenant.	Two and a half per cent. commission on disbursements on the barracks at Baton Rouge, first and second quarters of 1824, as Assistant Quartermaster - - - -	$102 28
Chase, H., William, Captain.	Per diem allowance as disbursing officer on the Gulf of Mexico, for the year 1822, on account of fortifications - - - - - - - -	639 50
	Do. at the Rigolets, from 1st January, 1823, to 10th June, 1824 - -	1,094 00

	Do. m at Plymouth Beach, from 1st August to 13th November, 1824; from 1st to 17th August surveying the beach previous to the repairs of the same; from 18th August to 18th November, 1824, as agent of fortifications in the repairs of Plymouth Beach - - - - - - -	201 50
	Do. as agent of fortifications at the Rigolets and Chef Menteur, from 1st July to 30th September, and from 1st November to 31st December, 1824 - - -	368 00
	Do. do. from 1st January to 30th September, 1825 - - - -	546 00
		$2,849 00
Childs, Tho's, Lieutenant.	Two and a half per cent. commission on his disbursements at Fort Washington, in third quarter of 1824, as Assistant Quartermaster - - - - - -	$64 62
Clitz, John, Lieutenant.	Two and a half per cent. commission on disbursements on account of the military road from Sackett's Harbor to Plattsburg, in 1823 and 1824 - - - -	$50 79
	As witness to a court martial at West Point, in August, 1825 - - - -	44 60
		$95 39
Delafield, Richard, Lieutenant.	Two and a half per cent commission on disbursements made by him on fortifications at New York, to first quarter of 1822 - - - - - - -	$106 16
	Per diem allowance as disbursing officer at Plaquemine Bend, from the 1st February, 1824, to the 30th September, 1825 - - - - - - -	1,216 00
	Do. do. do. at Fort Jackson, from the 1st October to 31st December, 1825 -	184 00
		$1,506 16
De Russey, E. R., Captain.	Per diem allowance as disbursing officer, &c., at Mobile Point, from the 1st January, 1822, to 31st March, 1823 - - - - - - - -	$1,311 00
	Do. Do. at Fort Delaware, from 8th November, 1823, to 26th January, 1824 -	160 00
	Two and a half per cent. on disbursements at Mobile Point, in March, April, and May, 1824	124 08

EXTRACT—Continued.

Names and rank.	Purposes, places, and periods.	Amount.
De Russey, E. R. Captain.	For attendance on court martial at Annapolis - - - - - -	$32 50
	Per diem allowance as disbursing officer at Mobile Point, from the 15th July, 1824, to 31st August, 1825 - - - - - - - - -	824 00
	Do. do. at Fort Hamilton, from 1st to 31st December, 1825 - - -	62 00
		$2,513 58
Dillahunty, N., Jno., Lieutenant.	Per diem allowance whilst surveying Chesapeake and Ohio Canal, from 30th July to 13th October, 1823 - - - - - - - - - -	$114 60
	Do. whilst surveying canal routes from the Ohio to lake Erie, and from Pittsburg to Philadelphia, from the 13th to 28th July, 1824 - - - -	24 00
	Do. do. do. from 20th April to 24th September, 1825 - - - -	223 50
		$361 50
Hunt, F., Thomas, Capt., as Qr. Mast.	Two and half per cent. commission on disbursements on account of old claims, made by him in 3d quarter of 1822, and 1st quarter of 1823 - - - - -	$34 27
	Do. on account of the barracks at Baton Rouge, in the 4th quarter of 1823 and 1st quarter of 1824 - - - - - - - - -	168 56
	Do. on account of war claims, 4th quarter 1824 - - - - -	4 55
		$207 38
Hook, H., James, Captain, on duty	Two and a half per cent. commission on provisions purchased in Georgetown and Baltimore between 17th August and 4th October, 1822 - - - - -	$179 22

in the office of the Commissary Gen. of Subsistence at Washington.	Do. at different places, between December, 1822, and April, 1823 - -	335 28
	Do. for Old Point, in December, 1823 - - - - - -	162 26
	Do. for May and June, 1822 - - - - - - - -	168 84
	Do. for August and September, 1823 - - - - - -	168 09
	Do. for June, 1824 - - - - - - - - -	235 04
	Do. for October and December, 1824 - - - - - -	332 34
	As witness to a court martial at Fort McHenry, in September, 1822 - - -	14 50
	As do. at fortress Monroe, in August, 1824 - - - - - -	34 07
	As do. at New Castle, in August, 1824 - - - - - -	56 04
	As do. at Old Point, in August, 1824 - - - - - -	39 59
		$1,725 27
Kearney, James, Major.	Per diem allowance whilst on the survey of St. Mary's river, Md., from the 4th of June to the 16th August, 1824 - - - - - - - -	$111 00
	On a court martial at New Castle, in August, 1824 - - - - -	55 20
	Per diem allowance whilst exploring a canal route in Pennsylvania, from 3d April to 30th September, 1825 - - - - - - - -	231 00
	Two and a half per cent. commission on disbursements in relation to internal improvement, in 2d, 3d, and 4th quarters of 1825 - - - - - -	168 15
		$565 35
Long, H., Stephen, Major.	Two and half per cent. commission on disbursements made by him on an exploring expedition on the waters of the Mississippi, in the years 1819, 1820, and 1821, allowed in February, 1823 - - - - - - - - -	164 41
	Per diem of one dollar and twenty-five cents per day on an expedition on St. Peter's river, in 1823 - - - - - - - - -	67 50
	Per diem allowance whilst making an experiment for the improvement of the navigation of	

EXTRACT—Continued.

Names and rank.	Purposes, places, and periods.	Amount.
Long, H. Stephen, Major.	the Ohio river, from the 6th July to 2d October, 1824, and from the 22d May to the 8th November, 1825 - - - - - - - - - -	$195 00
		$426 91
Maurice, W. Theodore, Captain.	Two and half per cent. commission on disbursements at Fort Washington in the years 1822, 1823, and 1st and 2d quarters of 1824 - - - - - -	$1,429 80
	Do. on disbursements at Presque Isle in the 3d and 4th quarters of 1824, and 1st, 2d, and 3d quarters of 1825 - - - - - - - -	298 40
	Do. do. at do. in the 4th quarter of 1825 - - - - - -	61 53
		$1,789 73
McNeill, G., Wm., Captain.	Per diem allowance whilst surveying the Chesapeake and Ohio canal, from the 5th July to 15th October, 1824 - - - - - - - - -	$154 50
	Per diem allowance whilst surveying the Chesapeake and Ohio canal, from the 20th April to the 24th September, 1825 - - - - - - - -	346 50
	Two and a half per cent. commission on disbursements made by him in the 1st and 2d quarters of 1825, on account of said canal survey - - - - -	72 99
		$573 99
Mansfield, F. K., Joseph, Lieutenant.	Two and a half per cent. commission on disbursements at New York, up to the 30th September, 1824, on account of fortifications - - - - -	$37 76
	Do. do. in the 4th quarter of 1824, and 1st and 2d quarters of 1825 -	11 93

	Per diem allowance as disbursing officer at New Utrecht Point, from 1st October, 1824, to 31st March, 1825 - - - - - - - - -	364 00
		$413 69
Story, C., Horace, Lieutenant.	Per diem allowance as engineer officer, employed on the Gulf of Mexico, from 1st January to 31st March, 1822 - - - - - - - - -	$121 50
	Two and a half per cent. commission on disbursements at Plaquemine Bend in the 4th quarter of 1822, and 1st and 2d quarters of 1823, on account of fortifications - -	784 31
		$905 81
Totten, G., Joseph, Major.	Extra services as a member of the Board of Engineers, from 1st January to 30th April, 1822 - - - - - - - - - -	$540 00
	Per diem allowance as disbursing officer at Mobile Point, from 12th May to 11th June, 1823	62 00
	Do. as a member of the Board of Engineers at the Harbor of Erie, from 28th July to 6th September, 1823 - - - - - - - -	229 50
	Do. as do. on the Chesapeake and Delaware canal, from 17th September, 1823, to the 24th January, 1824 - - - - - - -	643 60
	Do. as do. on same service, from the 7th to the 22d of May, 1824 - - -	72 00
	Do. as do. on internal improvement, from 19th June to 9th December, 1824 -	783 00
	Two and a half per cent. commission on disbursements made by him in the third quarter of 1823, (collecting materials for Mobile Point) - - - - -	68 52
	Attending a court martial at New Castle, in March, 1824 - - - -	115 70
	Per diem allowance as disbursing officer at Brenton's Point, from the 1st April to 31st December, 1825, on account of fortifications - - - - -	550 00
		$3,064 32
Tuttle, Stephen, Lieutenant.	Per diem allowance whilst on duty with the Board of Engineers, from the 1st January to 30th April 1822 - - - - - - - - -	$165 00

EXTRACT—Continued.

Names and rank.	Purposes, places, and periods.	Amount.
Tuttle, Stephen, Lieutenant.	Two and a half per cent. commission on disbursements on fortifications at New York in the third quarter of 1822	$48 63
	Per diem allowance whilst surveying Thompson's Island, January to April, 1823	142 50
	As acting Assistant Commissary of Subsistence, for May and June, 1823	40 00
	Per diem allowance as disbursing officer at Plaquemine Bend, from the 1st July to 31st January, 1824, on account of fortifications	430 00
	For issuing provisions at Plaquemine, in February, 1824	20 00
	Two and a half per cent. commission on disbursements at Oak Island, Cape Fear river, in 4th quarter of 1825	62 80
		$908 93
Poussin, T., Wm. Captain.	Amount brought forward	$217 50
	Per diem allowance whilst engaged on sundry surveys, from the 6th May to the 10th December, 1824	174 74
	Do. do. do. from the 9th March to the 4th August, 1825	260 75
	Do. do. do. whilst employed on the contemplated national road from Washington city to New Orleans, from the 22d October to 31st December, 1825	177 50
	Two and a half per cent. commission on disbursements made by him in 1825, on account of internal improvements	117 73
		$948 22

Test: W. BRENT, *Clerk.*

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And whereas, afterwards, to wit, on the fourth day of June, in the year of our Lord one thousand eight hundred and thirty-one, the United States, by their attorney aforesaid, produced and filed in court here the United States' writ for the correcting of errors, of and upon the judgment aforesaid, directed to the Judges of the circuit court of the District of Columbia, in the county of Washington; and in pursuance thereof, and according to the form and effect of the law in such case made and provided, a transcript of the record of proceedings of the judgment aforesaid, and all things thereunto relating, with the writ of error aforesaid, and a copy of the appeal bond hereto annexed, is hereby transmitted to the said Supreme court accordingly.

In testimony whereof, I hereunto subscribe my name, and affix the seal of the said circuit court for the county aforesaid, at the City of Washington, this day of eighteen hundred and thirty-one.

[L. S.] W. BRENT, *Clk. Ct. Ct. Dist. Col.*
City of Washington.

Writ of error.

UNITED STATES OF AMERICA, ss.—*The President of the United States to the Judges of the Circuit Court of the United States for the District of Columbia, sitting for the county of Washington, greeting:*

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court, before you or some of you, between the United States of America, plaintiffs, and Thomas Fillebrown, jr., defendant, a manifest error hath happened, to the great damage of the said United States, as by their complaint appears. We, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of August next, in the said Supreme Court, to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, which of right, and according to the laws and the custom of the United States, should be done.

Witness, the honorable John Marshall, Chief Justice of the said Supreme Court.

Issued the 4th day of June, 1831.

W. BRENT, *Clk. Ct. Ct. Dist. Col.*
City of Washington.

[*Citation.*]

UNITED STATES OF AMERICA,

District of Columbia, Washington county, ss.

To Thomas Fillebrown, jr. greeting:

You are hereby cited and admonished, to be, and appear at a Supreme Court of the United States, to be holden at Washington, on the first Monday of August next, pursuant to a writ of error, filed in the clerk's office of the circuit court of the United States, for the District of Columbia, in the county of Washington, wherein the United States of America are plaintiffs